

stitution of title to the Heye Foundation assets. The agreement shall—

- (1) require that the use of the assets be consistent with section 80q-1(b) of this title; and
- (2) be governed by, and construed in accordance with, the law of the State of New York.

The United States District Court for the Southern District of New York shall have original and exclusive jurisdiction over any cause of action arising under the agreement.

(Pub. L. 101-185, § 4, Nov. 28, 1989, 103 Stat. 1337.)

### § 80q-3. Board of Trustees of National Museum of the American Indian

#### (a) In general

The National Museum shall be under a Board of Trustees with the duties, powers, and authority specified in this section.

#### (b) General duties and powers

The Board of Trustees shall—

- (1) recommend annual operating budgets for the National Museum to the Board of Regents;
- (2) advise and assist the Board of Regents on all matters relating to the administration, operation, maintenance, and preservation of the National Museum;
- (3) adopt bylaws for the Board of Trustees;
- (4) designate a chairman and other officers from among the members of the Board of trustees;<sup>1</sup> and
- (5) report annually to the Board of Regents on the acquisition, disposition, and display of Native American objects and artifacts and on other appropriate matters.

#### (c) Sole authority

Subject to the general policies of the Board of Regents, the Board of Trustees shall have the sole authority to—

- (1) lend, exchange, sell, or otherwise dispose of any part of the collections of the National Museum, with the proceeds of such transactions to be used for additions to the collections of the National Museum or additions to the endowment of the National Museum, as the case may be;
- (2) purchase, accept, borrow, or otherwise acquire artifacts and other objects for addition to the collections of the National Museum; and
- (3) specify criteria for use of the collections of the National Museum for appropriate purposes, including research, evaluation, education, and method of display.

#### (d) Authority

Subject to the general policies of the Board of Regents, the Board of Trustees shall have authority to—

- (1) provide for restoration, preservation, and maintenance of the collections of the National Museum;
- (2) solicit funds for the National Museum and determine the purposes to which such funds shall be applied; and
- (3) approve expenditures from the endowment of the National Museum for any purpose of the Museum.

<sup>1</sup> So in original. Probably should be capitalized.

#### (e) Initial appointments to Board of Trustees

##### (1) Membership

The initial membership of the Board of Trustees shall consist of—

- (A) the Secretary of the Smithsonian Institution;
- (B) an Assistant Secretary of the Smithsonian Institution appointed by the Board of Regents;
- (C) 8 individuals appointed by the Board of Regents; and
- (D) 15 individuals, each of whom shall be a member of the board of trustees of the Heye Museum, appointed by the Board of Regents from a list of nominees recommended by the board of trustees of the Heye Museum.

##### (2) Special rule

At least 7 of the 23 members appointed under subparagraphs (C) and (D) of paragraph (1) shall be Indians.

##### (3) Terms

The trustee appointed under paragraph (1)(B) shall serve at the pleasure of the Board of Regents. The terms of the trustees appointed under subparagraph (C) or (D) of paragraph (1) shall be 3 years, beginning on the date of the transfer of the Heye Foundation assets to the Smithsonian Institution.

##### (4) Vacancies

Any vacancy shall be filled only for the remainder of the term involved. Any vacancy appointment under paragraph (1)(D) shall not be subject to the source and recommendation requirements of that paragraph, but shall be subject to paragraph (2).

#### (f) Subsequent appointments to Board of Trustees

##### (1) Membership

Upon the expiration of the terms under subsection (e) of this section, the Board of Trustees shall consist of—

- (A) the Secretary of the Smithsonian Institution;
- (B) a senior official of the Smithsonian Institution appointed by the Board of Regents; and
- (C) 23 individuals appointed by the Board of Regents from a list of nominees recommended by the Board of Trustees.

##### (2) Special rule

A<sup>2</sup> least 12 of the 23 members appointed under paragraph (1)(C) shall be Indians.

##### (3) Terms

The trustee appointed under paragraph (1)(B) shall serve at the pleasure of the Board of Regents. Except as otherwise provided in the next sentence, the terms of members appointed under paragraph (1)(C) shall be 3 years. Of the members first appointed under paragraph (1)(C)—

- (A) 7 members, 4 of whom shall be Indians, shall be appointed for a term of one year, as designated at the time of appointment; and
- (B) 8 members, 4 of whom shall be Indians, shall be appointed for a term of 2 years, as designated at the time of appointment.

<sup>2</sup> So in original. Probably should be "At".

**(4) Vacancies**

Any vacancy shall be filled only for the remainder of the term involved.

**(g) Quorum**

A majority of the members of the Board of Trustees then in office shall constitute a quorum.

**(h) Expenses**

Members of the Board shall be entitled (to the same extent as provided in section 5703 of title 5 with respect to employees serving intermittently in the Government service) to per diem, travel, and transportation expenses for each day (including travel time) during which they are engaged in the performance of their duties.

(Pub. L. 101-185, §5, Nov. 28, 1989, 103 Stat. 1337; Pub. L. 104-278, §2, Oct. 9, 1996, 110 Stat. 3355.)

## AMENDMENTS

1996—Subsec. (f)(1)(B). Pub. L. 104-278 substituted “a senior official” for “an Assistant Secretary”.

**§ 80q-4. Director and staff of National Museum****(a) In general**

The Secretary of the Smithsonian Institution shall appoint—

- (1) a Director who, subject to the policies of the Board of Trustees, shall manage the National Museum; and
- (2) other employees of the National Museum, to serve under the Director.

**(b) Offer of employment to Heye Foundation employees**

Each employee of the Heye Museum on the day before the date of the transfer of the Heye Foundation assets to the Smithsonian Institution shall be offered employment with the Smithsonian Institution—

- (1) under the usual terms of such employment; and
- (2) at a rate of pay not less than the rate applicable to the employee on the day before the date of the transfer.

**(c) Applicability of certain civil service laws**

The Secretary may—

- (1) appoint the Director, 2 employees under subsection (a)(2) of this section, and the employees under subsection (b) of this section without regard to the provisions of title 5, governing appointments in the competitive service;
- (2) fix the pay of the Director and such 2 employees without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates; and
- (3) fix the pay of the employees under subsection (b) of this section in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, subject to subsection (b)(2) of this section.

(Pub. L. 101-185, §6, Nov. 28, 1989, 103 Stat. 1339.)

**§ 80q-5. Museum facilities****(a) National Museum mall facility**

The Board of Regents shall plan, design, and construct a facility on the area bounded by

Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive, Southwest, in the District of Columbia to house the portion of the National Museum to be located in the District of Columbia. The Board of Regents shall pay not more than ⅔ of the total cost of planning, designing, and constructing the facility from funds appropriated to the Board of Regents. The remainder of the costs shall be paid from non-Federal sources.

**(b) National Museum Heye Center facility****(1) Lease of space from GSA****(A) Terms**

Notwithstanding section 586(a) and (b) of title 40, the Administrator of General Services may lease, at a nominal charge, to the Smithsonian Institution space in the Old United States Custom House at One Bowling Green, New York, New York, to house the portion of the National Museum to be located in the city of New York. The lease shall be subject to such terms as may be mutually agreed upon by the Administrator and the Secretary of the Smithsonian Institution. The term of the lease shall not be less than 99 years.

**(B) Reimbursement of Federal buildings fund**

The Administrator of General Services may reimburse the fund established by section 592 of title 40 for the difference between the amount charged to the Smithsonian Institution for leasing space under this paragraph and the commercial charge under section 586(a) and (b) of title 40 which, but for this paragraph, would apply to the leasing of such space. There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out this subparagraph for fiscal years beginning after September 30, 1990.

**(2) Construction****(A) Museum facility**

The Board of Regents shall plan, design, and construct a significant facility for the National Museum in the space leased under paragraph (1).

**(B) Auditorium and loading dock facility**

The Administrator of General Services shall plan, design, and construct an auditorium and loading dock in the Old United States Custom House at One Bowling Green, New York, New York, for the shared use of all the occupants of the building, including the National Museum.

**(C) Square footage**

The facilities to be constructed under this paragraph shall have, in the aggregate, a total square footage of approximately 82,500 square feet.

**(3) Repairs and alterations**

After construction of the facility under paragraph (2)(A), repairs and alterations of the facility shall be the responsibility of the Board of Regents.

**(4) Reimbursement of GSA**

The Board of Regents shall reimburse the Administrator for the Smithsonian Institu-