

DOCUMENT RESUME

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Policies and Practices on the Use of Federal and Private Funds, National Gallery of Art. GGD-78-26; B-133332. December 22, 1977. 8 pp.

Report to Sen. Robert C. Byrd, Chairman, Senate Committee on Appropriations: Interior Subcommittee; by Elmer B. Staats, Comptroller General.

**Issue Area: Accounting and Financial Reporting (2800).
Budget Function: General Government: Other General Government (806).**

Organization Concerned: Smithsonian Institution: National Gallery of Art.

Congressional Relevance: House Committee on House Administration: Librarians and Memorials Subcommittee; Senate Committee on Appropriations: Interior Subcommittee.

Authority: P.L. 90-376. 20 U.S.C. 71.

The National Gallery of Art's policies governing the use of Federal and private funds are based on Federal legislation and a trust agreement which together established the National Gallery of Art. Although formally established as a bureau of the Smithsonian Institution, the National Gallery functions as an autonomous and separately administered organization. Federal funds are committed for operation, administration, and maintenance of the Gallery and, under the Mellon Trust, surplus trust income is available for extraordinary upkeep and operating expenses to the extent that Federal funds are unavailable. Private trust funds are used for building construction costs, compensation of certain executive officers, acquisitions of works of art, and free concerts.

Findings/Conclusions: All works of art in the Gallery's collections have been given or bequeathed to it or purchased with the proceeds of gifts. An analysis of the use of private and Federal funds in fiscal year 1976 and the transition quarter showed that for most expenditures there were clear-cut distinctions as to which funds were used. For those classes of expenditures where both Federal and private funds were used, there were reasonable criteria for deciding which funds to expend. During this period, the Gallery disbursed \$689,000 in private administrative and operating funds, 54% of which was for administration of the trust and compensation of executive officers. In fiscal year 1976, including the transition quarter, and in 1977 and 1978, the Congress appropriated for the National Gallery \$9.8 million, \$12.7 million, and \$14.5 million, respectively. The Gallery's policies on the use of funds were consistent with authorizing legislation and the trust agreement, and its practices conformed to these policies. (HTW)



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-133332

22 DEC 1977

04564

The Honorable Robert C. Byrd
Chairman, Subcommittee on the Department
of the Interior and Related Agencies
Committee on Appropriations
United States Senate

Dear Mr. Chairman:

This report is in response to your November 23, 1976, request that we review the National Gallery of Art's policies and practices for using Federal and private funds. This report, together with our reports to you dated March 31, 1977, and September 20, 1977, concerning the Smithsonian's fiscal practices and policies and on private funds banking practices, respectively, completes the work you requested on the Smithsonian Institution.

The National Gallery's policies governing the use of Federal and private funds are based on Federal legislation and a trust agreement, which together established the National Gallery of Art.

The Federal legislation pledged the United States to provide funds necessary for the operation, administration, and maintenance of the Gallery. Private trust funds are used for building construction costs, compensation of certain executive officers, acquisitions of works of art, and free concerts. Trust funds are also used for extraordinary operation and maintenance expenses, but only if Federal funds are not available.

Our review showed that the Gallery's policies on the use of Federal and private funds were consistent with the provisions, restrictions, and limitations expressed in the authorizing legislation and the trust agreement, and that its practices conform to such policies. For those classes of expenditures where both Federal and private funds are used, the Gallery has reasonable criteria for deciding in advance which funds are to be used.

GGD-78-26
(41906)

ORIGIN OF THE NATIONAL GALLERY

By joint resolution approved March 24, 1937 (Public Resolution 14, 75th Congress (20 U.S.C. 71)), the Congress provided land in Washington, D.C., to be used as a site for the National Gallery of Art and authorized the A. W. Mellon Educational and Charitable Trust to construct a building on the land. As provided in the joint resolution, the Mellon Trust, upon completion of the National Gallery building, donated a collection of works of art to be housed and exhibited in the Gallery. The Mellon Trust also created an endowment fund in 1942 with an initial donation of \$5 million for the benefit of the National Gallery. The joint resolution specified that the works of art contained in the National Gallery shall be exhibited regularly to the general public free of charge.

The joint resolution reserved the adjoining land on the east side of the National Gallery building for future additions to the Gallery. In July 1968 legislation was enacted (Public Law 90-376) authorizing the National Gallery trustees to construct an addition within the reserved area and requiring that the addition be paid for from National Gallery trust funds. In 1971 construction began on a new building which will be joined to the existing building by an underground tunnel. The tunnel will be entered by way of the Gallery's new cafeteria which was opened in the summer of 1976. The official opening of the Gallery's East Building is scheduled for June 1, 1978. The project's total cost is expected to be about \$95 million.

The Gallery's programs and activities include (1) daily exhibitions of works of art from its permanent collection, (2) a temporary exhibitions program through which it assembles and displays for short periods works of art and related objects pertaining to a particular theme which are on loan from other museums, (3) an educational program providing schools and libraries with a variety of educational art materials and offering regular lectures, tours, slides, and films in the National Gallery Building, (4) a publications program through which it sells reproductions of works of art, postcards depicting paintings, catalogs, books of illustrations, and books pertaining to art or artists of the schools represented in the Gallery's collections, (5) a library and photographic archives maintained for the scholarly study of art, (6) a national lending service through which it loans original works of art to museums throughout the United States

and abroad, (7) a conservation and research program for examination, analysis, preservation, and restoration of art objects, and (8) a music program through which it presents free concerts to the public.

ORGANIZATION OF THE NATIONAL GALLERY

Although formally established as a bureau of the Smithsonian Institution, the National Gallery of Art functions as an autonomous and separately administered organization. It is governed by its own Board of Trustees, the statutory members of which are the Chief Justice of the United States, Chairman; the Secretary of State; the Secretary of the Treasury; and the Secretary of the Smithsonian Institution; all *ex officio*; and five general trustees. No officer or employee of the Federal Government is eligible to be chosen as a general trustee.

The Board is authorized by the joint resolution to appoint and fix the compensation and duties of the officers and employees of the Gallery. The executive officers are paid from trust funds, and their appointment and salaries are not subject to civil service laws. However, such executive officers and other Gallery employees paid from trust funds are covered by the civil service retirement system; the employer contribution is paid from trust funds. As of September 30, 1976, there were five executive officers and 21 other employees who were paid from private funds and 406 employees on the Federal payroll.

FUNDING

The National Gallery receives both Federal and private financial support. The joint resolution committed Federal funds for the full operation, administration, and maintenance of the Gallery within any limitations established by annual appropriation acts. Under terms of the Mellon Trust, any surplus trust income, after payment of the compensation of executive officers and expenses of administering the trust, is available for extraordinary upkeep and operating expenses, but only to the extent that Federal funds are not or will not be available.

A supplement of the Trust Indenture, dated December 4, 1958, established an art purchase fund to which surplus income from the A. W. Mellon Endowment Fund could be transferred. We were advised that in the years 1959-69 and 1974-76, income from the endowment fund not required for the purposes enumerated was transferred to this art purchase fund.

The joint resolution also authorizes the Board of Trustees to accept and administer gifts, bequests or devises of works of art, money, securities, or other property for the benefit of the Gallery. The Gallery has received many contributions since it was established, some with restrictions and some with no restrictions.

Gallery officials told us that every work of art in the Gallery's collections has been either given or bequeathed to it or purchased with the proceeds of gifts--no Federal funds have been spent for acquisitions of works of art.

Our analysis of the Gallery's use of private and Federal funds in fiscal year 1976 and the transition quarter showed that for most expenditures there were clear-cut distinctions as to which funds were used. For those classes of expenditures where both Federal and private funds were used, the Gallery had reasonable criteria for deciding which funds to expend.

Federal funds expenditures

The National Gallery derives its policies on the use of Federal funds from the joint resolution and from the annual appropriations for salaries and expenses. In fiscal year 1976, including the transition quarter, and in 1977 and 1978, the Congress appropriated for the National Gallery \$9.8 million, \$12.7 million, and \$14.5 million, respectively. The increased appropriations in the latter 2 years were attributable, for the most part, to expenses associated with equipping and staffing the nearly completed East Building

The Gallery used its 1976 and transition quarter Federal funds for employee salaries and benefits (80 percent), utilities and communications (8 percent), supplies and materials (5 percent), equipment and other operating expenses (7 percent). The proportion of funds used for salaries and benefits dropped to 62 percent in 1977 and is estimated at 64 percent for 1978, primarily because of rather substantial increases in costs for equipping the new building, landscaping its grounds, and reconstructing art registration and shipping facilities in the old building.

The following table shows the application of Federal funds for fiscal years 1976, including the transition quarter, and 1977, and the estimate for 1978.

<u>Class of expenditures</u>	<u>Fiscal years</u>		
	<u>1976 & transition quarter (actual)</u>	<u>1977 (actual)</u>	<u>1978 (estimate)</u>
	(000 omitted)		
Salaries and benefits	\$7,852	\$ 7,870	\$ 9,346
Utilities, communications, and rents	799	1,006	1,919
Supplies and materials	512	588	674
Travel	51	48	58
Transportation	41	36	36
Printing and reproduction	75	72	106
Other services (note a)	320	324	430
Equipment (including library books)	130	1,987	1,900
Lands and structures	-	<u>b/755</u>	<u>40</u>
Total obligations	<u>\$9,780</u>	<u>\$12,636</u>	<u>\$14,509</u>

a/Includes services related to temporary exhibitions; the repair, alteration, and maintenance of personal and real property; restoration of works of art; and costs for employee training.

b/Includes cost of sidewalks and landscaping on the East Building grounds and costs of reconstructing the art registration and shipping facilities in the existing building.

Private funds expenditures

The report of the Treasurer of the National Gallery for fiscal year 1976 shows that as of June 30, 1975, the balance of private fund cash and investments was \$61.4 million. For the 15 months ended September 30, 1976, private fund receipts from all sources totaled \$9 million. Disbursements of private funds during the same 15-month period amounted to \$28.9 million, including \$25.8 million for construction of the East Building and \$1.2 million for art purchases. The balance of private fund cash and investments as of September 30, 1976, was \$41.5 million.

Private fund expenditures are made from three types of funds: specific purpose funds, administrative and operating funds, and publications funds. Specific purpose funds are private funds which have been donated to the National Gallery and are available only for some specific use designated by the donor. In addition to the expenditures for the East Building

and for art acquisitions, specific purpose funds have been used for fellowships, the purchase of library books, and additions to the photographic archives. In fiscal year 1976 and the transition quarter, expenditures of specific purpose funds totaled \$28.3 million.

Administrative and operating funds are provided from the income of the A. W. Mellon Endowment Fund. The Mellon trust indenture provides that the trust fund income will be used for extraordinary upkeep and operating expenses, but only after first paying expenses of administering the trust and then for compensation of the National Gallery's executive officers. The trust indenture makes it clear that endowment fund income shall not be used as a substitute for Federal funds. The trust indenture states that "the Trustees shall not distribute such surplus of income for such purposes where public funds have been made available or could be made readily available."

In fiscal year 1976 and the transition quarter, the Gallery disbursed \$689,000 in private administrative and operating funds, 54 percent of which (\$373,000) was for administration of the trust and compensation of executive officers. The remainder of \$316,000 was used for purposes that the Gallery considered to be extraordinary administrative and operating expenses, such as special exhibitions of works of art, insurance, and expenses related to the purchase of works of art.

The following table shows the application of specific purpose and administrative and operating private funds for fiscal year 1976, including the transition quarter.

<u>Class of expenditure</u>	<u>Administrative and operating funds</u>	<u>Specific purpose funds</u>	<u>Total</u>
	(thousands)		
Salaries and benefits	\$310	\$ -	\$ 310
Supplies and materials	9	1	10
Photographic archives	-	123	123
Construction and renovation	-	26,104	26,104
Insurance	47	44	91
Fellowships	-	116	116
Art acquisition	11	1,214	1,225
Travel	18	1	19
Transportation	24	66	90
Printing and reproduction	28	44	72
Other services (note a)	178	392	570
Equipment	13	51	64
Library books	14	88	102
Other	<u>37</u>	<u>24</u>	<u>61</u>
Total disbursements	<u>\$689</u>	<u>\$28,268</u>	<u>\$28,957</u>

a/Includes installation costs for temporary exhibitions; auditing, legal, trust, custodial, and investment counseling services related to the trust funds; guest lecturers' honoraria; and the production of motion pictures.

The Publications Fund, a self-perpetuating fund, was established in 1940 through an interest-free loan of \$40,000 from the A. W. Mellon Educational and Charitable Trust. The loan agreement provided that the loan should be held, used, and applied in a separate publications fund for the purpose of making available to the public, at a reasonable cost, catalogs, reproductions, postcards, and other publications generally related to works of art in the National Gallery. When the loan was 75 percent repaid, the remainder was contributed to the fund by the Mellon Trust. In fiscal year 1976 and the transition quarter, the Publications Fund had receipts from sales, dividends, and interest of \$1.5 million, and expenses of \$1.1 million. The balance in the fund was \$2.9 million at September 30, 1976. All revenues generated by sales of publications remain in the Publications Fund and are used to pay the cost of items sold, the salaries of all employees who devote their full time to the business of the fund, and other expenses of operation.

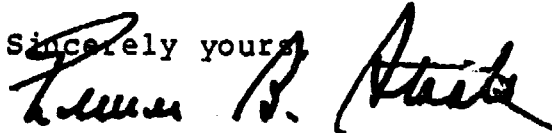
SCOPE OF REVIEW

Our examination included a review of the basic legislation and trust agreements establishing the National Gallery and other laws, regulations, and documents relating to its policies and practices for the use of Federal and private funds: We examined reports and selected transactions concerning the expenditure of Federal and private funds in fiscal year 1976 and the transition quarter and reviewed budget documents relating to fiscal years 1977 and 1978.

National Gallery officials reviewed a draft of this report and their comments were considered in preparing the final report.

As arranged with your office, we are sending copies of this report to the Director, National Gallery of Art, and to the Secretary, Smithsonian Institution. Copies will also be available to other interested parties who request them.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Luther B. Starks". The signature is written in a cursive style with a large initial "L" and "S".

Comptroller General
of the United States