

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for the purchase of not to exceed 53 passenger motor vehicles, of which 48 are for replacement only; reimbursement to the General Services Administration for security guard services; *reimbursement to the United States Fish and Wildlife Service (FWS) for Refuse Revenue Sharing payments made by FWS to local entities for the FWS real property transferred to the Geological Survey*; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Survey duly appointed to represent the United States in the negotiation and administration of interstate compacts: *Provided*, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302 et seq.[: *Provided further*, That the United States Geological Survey may hereafter contract directly with individuals or indirectly with institutions or nonprofit organizations, without regard to 41 U.S.C. 5, for the temporary or intermittent services of students or recent graduates, who shall be considered employees for the purposes of chapters 57 and 81 of title 5, United States Code, relating to compensation for travel and work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, but shall not be considered to be Federal employees for any other purposes]. (*Department of the Interior and Related Agencies Appropriations Act, 2000, as enacted by section 1000(a)(3) of the Consolidated Appropriations Act, 2000 (P.L. 106-113).*)

Justification of Proposed Language Change

1. Insertion: *reimbursement to the United States Fish and Wildlife Service (FWS) for Refuge Revenue Sharing payments made by FWS to local entities for the FWS real property transferred to the Geological Survey*

This language will authorize the U.S. Geological Survey to reimburse the U.S. Fish and Wildlife Service (FWS) for impact funding the FWS disburses to local entities pursuant to Refuge Revenue sharing that is associated with Federal real property transferred to the USGS from the FWS. Despite the transfer of these properties to USGS, the FWS has continued to provide impact funding to local entities because USGS lacks the authority to make these payments. The proposed language takes advantage of existing administrative efficiencies by having FWS continue to make the disbursements directly to local entities.

2. Deletion: *Provided further, That the United States Geological Survey may hereafter contract directly with individuals or indirectly with institutions or nonprofit organizations, without regard to 41 U.S.C. 5, for the temporary or intermittent services of students or recent graduates, who shall be considered employees for the purposes of chapters 57 and 81 of title 5, United States Code, relating to compensation for travel and work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, but shall not be considered to be Federal employees for any other purposes*

As part of the FY 2000 Congressional enactment of the Department of the Interior and Related Agencies Appropriations Act, this language was made permanent. This change requests the deletion of these words, because permanent language does not need to be repeated and made part of the appropriation process each year. However, this language can now be found in the Appropriation Language and Citations section that follows this page.

Appropriation Language and Citations

1. The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 53 passenger motor vehicles, of which 48 are for replacement only;
 - **31 U.S.C. 638a(a)** provides that, "Unless specifically authorized by the appropriation concerned or other law, no appropriation shall be expended to purchase or hire passenger motor vehicles for any branch of the Government. ..."
 - **31 U.S.C. 638a(b)** provides that, "Excepting appropriations for the military and Naval Establishments, no appropriation shall be available for the purchase, maintenance, or operation of any aircraft unless specific authority for the purchase, maintenance, or operation thereof has been or is provided in such appropriation."
2. reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest;
 - **No specific authority.** These provisions are required by reason of rulings of the Comptroller General that specific authority is required for reimbursing the General Services Administration for guard services (B-87255); and for contracting with private persons for the performance of duties with which the agency is specifically charged (15 Comp. Gen. 951).
3. construction and maintenance of necessary buildings and appurtenant facilities;
 - **No specific authority.** The Organic Act of 1879, establishing the Geological Survey and providing for "...examination of the geological structure, mineral resources, and products of the national domain" (43 U.S.C. 31) is general authorization for construction of special-purpose laboratory buildings. Specific authorization by the Congressional committees on public works is not needed because of the highly specialized purposes of the building. 40 U.S.C. 612: "The term 'public building' means any building ... which is generally suitable for office or storage space ... but shall not include any such buildings and construction projects: ... (E) on or used in connection with ... or for nuclear production, research, or development projects." 41 U.S.C. 12: "No contract shall be entered into for the erection, repair, or furnishing of any public building ... which shall bind the government to pay a larger sum of money than the amount in the Treasury appropriated for the specific purpose."
4. acquisition of lands for gauging stations and observation wells;
 - **43 U.S.C. 36(b)** provides that, "The Secretary of the Interior may, on behalf of the United States and for the use by the Geological Survey in gaging streams and underground water resources, acquire lands by donation or when funds have been appropriated by Congress by purchase or condemnation. ..."
5. expenses of the U.S. National Committee on Geology;
 - **43 U.S.C. 31** participation in and payment of expenses of the U.S. National Committee on Geology is a proper and necessary function of the Geological Survey, and so is authorized by the Survey's Organic Act of March 3, 1879, 43 U.S.C. 31. This Act provides that, "...The Director of the Geological Survey, which office is established, under the Interior Department, shall be appointed by the President by and with the advice and consent of the Senate. This officer shall have the direction of the Geological

Survey, and the classification of the public lands and examination of the geological structure, mineral resources, and products of the national domain. ..."

6. and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts.
 - **66 Stat. 453.** The above language first appeared in the Appropriation Act for FY 1953, P.L. 82-470 (66 Stat. 453), and has been repeated in each Act since that date. Article I, Section 10, paragraph 3, of the United States Constitution provides that, No State shall, without the consent of Congress, lay any duty on tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit or delay." (emphasis supplied)

Thus each interstate compact must be approved by the Congress and signed by the President. The Public Law approving each interstate compact represents the authorizing legislation.

7. Provided, That activities funded by appropriations herein may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302, et seq.
 - The above language appears in the Department of the Interior and Related Agencies Appropriations Act, 1988, as included in Public Law 100-202.

Permanent Authority:

8. *Provided*, That appropriations herein and hereafter made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Geological Survey, and that within appropriations herein and hereafter provided, Geological Survey officials may authorize either direct procurement of or reimbursement for expenses incidental to the effective use of volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment, and supplies.
 - **43 U.S.C. 50c**
9. *Provided further*, That provision for such expenses or services is in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local government.
 - **43 U.S.C 31(a)**
10. *Provided further*, That the Geological Survey (43 U.S.C. 31(a)) shall hereafter be designated the United States Geological Survey.
 - **Department of the Interior and Related Agencies Appropriations Act, 1992, as included in Public Law 102-154.**

11. *Provided further*, That the United States Geological Survey may hereafter contract directly with individuals or indirectly with institutions or nonprofit organizations, without regard to 41 U.S.C. 5, for the temporary or intermittent services of students or recent graduates, who shall be considered employees for the purposes of chapters 57 and 81 of title 5, United States Code, relating to compensation for travel and work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, but shall not be considered to be Federal employees for any other purposes.

- **Department of the Interior and Related Agencies Appropriations Act, 2000, as included in Public Law 106-113.**