



SMITHSONIAN DIRECTIVE 806,

November 18, 2019,

Date Last Declared Current: October 1, 2021

PUBLISHING AT THE SMITHSONIAN INSTITUTION AND BY SMITHSONIAN EMPLOYEES

Purpose	1
Background	2
Scope	2
Definitions	2
Policy	4
Ownership and Intellectual Property by	
Employee Type	4
Publishing with Smithsonian Publishers (Internal)	5
Smithsonian Institution Scholarly Press	5
Smithsonian Enterprises	5
Smithsonian Units as Publishers	5
Publishing with Third Parties (External)	6
Publishing Costs and Fees	6
Royalties and Payments	6
Agents	6
Special Circumstances	7
Substantial Work Completed Prior to SI	
Employment	7
Post-Employment Publication of Works	7
Attribution of Authorship	8
Disclosure of Funding Sources	8
Contracting Authority for Publishing Agreements	8
Authority for Internal Publishing	9
Authority for External Publishing	9
Roles and Responsibilities	9
References	11
Appendix: Authority for Publishing Agreements	12

PURPOSE

This directive establishes the policies for publishing works, as defined herein, that are prepared by Smithsonian Institution (SI) employees as part of their official duties and by Smithsonian Institution units (museums, research centers, programs, and offices).

BACKGROUND

To fulfill the Smithsonian Institution’s mission, the “increase and diffusion of knowledge,” the Smithsonian and its units publish a wide range of works about the Smithsonian, its collections, research, programs, and activities prepared by SI employees as part of their official duties and by third parties that convey rights to the Smithsonian to publish. These works are published in a variety of forms and media by Smithsonian units and by external publishers. The diversity of publishing activity ranges from informal blog and social media posts to peer-reviewed scholarly journal articles to trade non-fiction books, and includes print, digital, and other formats. The Smithsonian encourages and supports distribution of its research and scholarship to achieve broad reach and impact and, with respect to federally funded research, has implemented its [Plan for Increased Public Access to Results of Federally Funded Research](#) (SI’s Public Access Plan).

SCOPE

This directive applies to all works that are prepared by SI employees as part of their official duties for purposes of publication (formal or informal) and to works in which the Smithsonian owns the intellectual property rights and/or has the right to publish.

This directive does not apply to inventions and patents (see SD 102, [Disclosing, Protecting, and Commercializing Inventions](#)); to image licensing (see SD 609, [Digital Asset Access and Use](#)); or to outside publishing activities unrelated to official duties, which require ethics clearance (see SD 103, [Smithsonian Institution Standards of Conduct](#)).

DEFINITIONS

Click license — Also called a “click-through” agreement, an on-screen license that includes publisher-drafted terms and conditions for publication of a work and requires explicit consent to all terms as drafted, typically with a digital signature or by clicking an “agree” button. A click license generally must be completed when submitting a work or after a publisher accepts a work for publication (after peer review). Most publishers’ online systems require username and password to access and complete click licenses. A click license is a publishing contract.

Corresponding author —The author(s) of a multi-author work who is generally responsible for coordinating with all the authors, corresponding with the publisher, coordinating submission and revisions, and receiving and, if authorized, executing the publishing agreement.

Formal publication — A work that generally presents original research and is prepared for submission to a publisher and/or is characterized by professional editing and design, peer review in many cases, and distribution by a publisher. Formal publications (whether in print,

DEFINITIONS (Continued)

digital or other format) include, but may not be limited to, books, book chapters/papers, monographs, journal articles, edited collections, magazine articles, conference proceedings, and preprints.

Informal publication — A work that is not characterized by some or all of the attributes of a formal publication. Informal publications typically include, but may not be limited to, book reviews, editorials, forewords, abstracts, white papers, blogs, and content prepared for websites or social media platforms.

Intellectual property — A category of intangible rights that are associated with creations of the human intellect, including publications, and, for purposes of this directive, primarily encompasses copyrights (including public domain content) in text, images, data, and other content that is incorporated into a work.

Peer review — Formal, publisher-coordinated evaluation of a scientific, academic, or professional work by subject-matter experts or specialists.

Preprint — An author's original version of a manuscript that is generally prepared for submission to a publisher and has not yet been subjected to peer review. Preprints are posted, usually by authors, on non-commercial, discipline-supported preprint repositories (e.g., arXiv, bioRxiv) prior to, or contemporaneously with, submission to a publisher or journal.

Publisher — Any entity (e.g., corporations, professional associations, and non-profits) that publishes formal publications or posts informal publications.

Publishing agreement — Any contract (e.g., assignment, agreement, license, memorandum of understanding), including click licenses, entered into between the Smithsonian and a publisher, that sets forth the terms of publication for a work prepared by an SI author and/or consisting of Smithsonian Content.

Royalty — Funds paid to a rights holder in exchange for the right to publish a work. Royalties exclude gratis copies of a publication and in-kind compensation, such as waived fees.

SI author — Any SI employee who prepares a work, alone or as a co-author, as part of the employee's official duties.

Smithsonian Content — In publications, the substance of a work that is based on and/or derived from SI collections, resources, equipment, facilities, property, data (including but not limited to data generated by Smithsonian equipment), and/or staff expertise that is related to official duties.

DEFINITIONS (Continued)

Work — A document or manuscript in any format, including but not limited to print and electronic, that is intended for formal or informal publication and is prepared, in whole or in part, either (a) by one or more SI employee(s) as part of the employee’s official duties or (b) for the Smithsonian by a third party, either as a work-made-for-hire and/or with the right to publish conveyed contractually to the Smithsonian.

POLICY

To carry out its mission, “the increase and diffusion of knowledge,” the Smithsonian encourages SI authors to publish a wide variety of formal and informal works that disseminate Smithsonian Content on a broad range of platforms. The Smithsonian is dedicated to freedom of inquiry and to the academic independence of its employees to submit their works through quality, reputable publishing outlets that are appropriate for their disciplines and/or research findings. Although SI authors are encouraged to consider publishing their works through the Smithsonian’s internal publishing channels, to the extent possible, the Smithsonian permits SI authors to choose the publishers to which they will submit works for consideration, with the understanding that the Smithsonian is responsible for contract negotiation and execution for works by SI authors.

Ownership and Intellectual Property by Employee Type

Works prepared by SI employees as part of their official duties are the property of the Smithsonian, not the personal property of the employee, and are published under the authority of the Smithsonian. As the employer, the Smithsonian is, for contract purposes, the “author” of works prepared by its federal and trust employees, as well as works prepared by third parties as works-made-for-hire.

Under the U.S. Copyright Act, works prepared by federal employees, including the Smithsonian’s civil service employees, as part of their official duties are deemed to be “government works” that are in the public domain and ineligible for copyright protection. It should be noted, however, that to the extent such a work also includes copyright-protected images, illustrations, and other third-party materials, the work as a whole may be eligible for copyright protection as a compilation. Whether or not the work is in the public domain in whole or in part, as the employer of the SI author, the Smithsonian has the authority to determine the terms of publication of these works, in collaboration with the SI authors. In contrast, works prepared by trust fund employees as part of their official duties are deemed eligible for copyright protection as works-made-for-hire, and the copyright is owned by the Smithsonian, as employer. Copyright notices must be in the name of the Smithsonian Institution (Copyright © 20xx Smithsonian Institution). Publication decisions for such works, including the granting of derivative and subsidiary rights, are made by the Smithsonian, in collaboration with the SI authors.

POLICY (Continued)

When authorship for multi-author works includes non-federal SI authors and external authors, the Smithsonian may claim intellectual property rights in that portion of works prepared by the non-federal SI authors. If individual author contributions cannot be segregated, then intellectual property rights can be jointly held or otherwise determined in collaboration with all the authors.

Publishing with Smithsonian Publishers (Internal)

Although it is not required and may not be appropriate for certain types of works (e.g., scientific journal articles), early in the process of preparing a work and before seeking an external publisher, SI authors are encouraged to consider one of the Smithsonian's internal publishing options.

Smithsonian Institution Scholarly Press

The [Smithsonian Institution Scholarly Press](#) (SISP) publishes scholarly works prepared by SI authors as part of their official duties. Factors for considering SISP include type of work (scholarly, reference, and technical monographs, including edited collections), branding, audience, publication specifications and quality, and scope of distribution.

Smithsonian Enterprises

Smithsonian Enterprises (SE) publishes revenue-generating trade books through two channels: [Smithsonian Books \(SB\)](#) and the Consumer and Education Products (CEP) group. Both publish works related to Smithsonian Content and, in some cases, prepared by SI authors. SB is an internal publisher, and CEP licenses works to external publishers. Major factors for considering SE are whether the work is intended for a wide audience and whether it will generate revenue.

Smithsonian Units as Publishers

SI units may publish formal and informal works, directly or by agreement with a third-party publisher so long as they use unit resources and unit staff with appropriate expertise to perform the duties related to producing and distributing the Smithsonian Content. Criteria for unit publications are determined by individual SI units and/or the programs that manage those publications. In the event an individual who is not an SI employee contributes to any such work, the unit or program that issues the publication must coordinate with the Office of Contracting and Personal Property Management (OCon&PPM) to develop and execute publishing agreements with non-SI contributors. All expenses and revenues associated with unit publications shall be borne or earned by the unit.

POLICY (Continued)

Publishing with Third Parties (External)

Formal and informal publications attributed to SI authors are often published by external publishers. The Appendix sets forth the process for having a publishing agreement received from an external publisher reviewed, negotiated, and executed by an authorized SI official.

Publishing Costs and Fees

Publishers usually require authors to pay for licensing third-party materials (i.e., permission fees) and often charge authors other fees associated with publication (e.g., open-access fees, article processing charges [APCs], subventions) in exchange for publishing the work. The SI author is responsible for confirming that funds from the SI author's unit or another SI unit are available to pay such costs and fees before the publishing agreement is executed.

Royalties and Payments

SI authors may not personally receive royalties or other types of payments (e.g., honoraria) for works prepared by them as part of their official duties. Royalties and other payments must be paid to the Smithsonian. Payments should be deposited as revenue to a unit discretionary or auxiliary fund (Fund 402 or 420, respectively) for use by the SI author's unit or department. Accounting policies and procedures for revenue are provided in [SD 301, Financial Management Accounting Policies and Procedures Handbook](#). Under certain circumstances set forth below in "Special Circumstances," an SI author may be authorized to personally receive a share in the royalties in connection with publications.

Agents

On occasion, it may be important to engage a literary agent to secure an appropriate publisher for an SI-authored work. SI authors do not have the authority to engage agents to represent them personally for works prepared as part of their official duties. If, after consulting the Office of General Counsel (OGC), an SI author and Unit Director determine that an agent's services are needed in connection with a specific publication, then the Smithsonian will engage an agent under the terms of a contract to be negotiated by and signed at the Office of Contracting and Personal Property Management (OCon&PPM).

POLICY (Continued)

Special Circumstances

Substantial Work Completed Prior to SI Employment

If an SI employee, prior to becoming an employee, completes a substantial portion of a work (e.g., a dissertation) and will complete the work for publication as part of his/her official duties as an SI employee, then the Smithsonian is responsible for negotiating and executing the publishing agreement, in consultation with the SI author. In such circumstances, and with permission of the SI author's Unit Director, the Unit may share royalties with the employee personally, with a presumption that the royalty split will be 50/50. Exceptions to the royalty split for special circumstances must be approved, on a case-by-case basis, by the SI author's Unit Director in consultation with OGC. In such circumstances, it would be appropriate for the SI author to retain copyright ownership in the underlying dissertation but for the Smithsonian to own any applicable copyright in the completed work. If an SI employee has not completed a substantial amount of the work prior to joining the Smithsonian and prepares the work for publication almost entirely as part of his/her official duties, then the Smithsonian will own any applicable copyright and retain all royalties, which will be accounted for as revenue earned by the SI author's unit.

Post-Employment Publication of Works

For works that contain Smithsonian Content and are incomplete or unpublished when SI employment ends (by termination, resignation, or transfer), but for which a substantial amount of work was completed during SI employment, the departing SI author shall first offer the Smithsonian the opportunity to publish the work internally if the nature of the work is suitable for internal publishing. If an internal publishing option is not available, if the internal publishers decline to publish, or if the departing SI author and the Smithsonian are unable, after good-faith negotiations, to reach agreement on the terms of publication through an internal publishing option, with the permission of the Unit Director, the work may be released to the departing SI author, who may subsequently pursue publication independently of the Smithsonian. In such circumstances, with the permission of the departing employee's Unit Director, and in consultation with OGC, the Unit may share royalties with the departing employee personally, with a presumption that the royalty split will be 50/50. Publication of any work that is partially drafted while the author was an SI employee shall include appropriate attribution and/or credit to the SI and to all Smithsonian Content included, and the departing SI author shall be fully responsible for obtaining any rights clearances that may be required for publication and for complying with all other terms as the SI may require. If the departing SI employee maintains an ongoing Smithsonian status as emeritus or volunteer, and will complete the work and/or publish the work while in that status, the employee must consult with OGC before accepting any share of royalties in a personal capacity and is also subject to any publication guidelines contained in the Smithsonian Directives governing emeritus and volunteer status.

POLICY (Continued)

If there is any question about designation of a work as Smithsonian Content, the SI author must consult with an OGC Ethics Advisor (OGCEthics@si.edu).

Attribution of Authorship

SI authors are expected to ensure proper attribution of all authors of their works in accordance with generally accepted professional standards and codes of ethics applicable to their respective professional disciplines, in accordance with [SD 103](#) and the Smithsonian's [Statement of Values and Code of Ethics](#).

SI authors should comply with all publishing-related requirements, including appropriate recognition of donors, grants, contracts, permits, international collaborators, etc., as required.

SI authors are encouraged to register for ORCID IDs (Open Researcher and Contributor ID, <https://orcid.org/>) to facilitate discoverability and increase the impact of their research results, even if such registration is not formally required by publishers.

Disclosure of Funding Sources

In accordance with [SD 103, Smithsonian Institution Standards of Conduct](#), for any work submitted for publication, each SI author is required to identify and disclose to all internal and external publishers each source of funding above a specified amount (currently \$10,000 USD) for any research that he or she conducted and relied upon in drafting the work, whether or not any disclosure requirement is separately imposed by the funder or the publisher, and whether or not the publisher will include the disclosed sources in the printed or digital/online publication. SI authors are responsible for the disclosure of their funding sources, but not those of their co-authors. SI authors are not required to disclose new funding sources for publications that are reprinted or reproduced from the original publication, unless the work is updated or revised. To the extent that a funder or publisher imposes a separate disclosure requirement by contract, SI authors are obligated to comply with all contractual requirements.

Contracting Authority for Publishing Agreements

Publishing agreements are legally binding contracts. When an SI author is asked by a publisher to enter into a publishing agreement for work completed by the SI author, either as sole author or as corresponding or a contributing author for a multi-author work, the agreement must be signed either by: (a) the Director, OCon&PPM (Smithsonian's Contracting Officer), or (b) an employee whose delegated authority is from the Secretary or the Director, OCon&PPM, and includes publishing agreements (e.g., SE President). In all instances, those executing contracts are doing so on behalf of the Smithsonian, and not in a personal capacity. SI employees without

POLICY (Continued)

such authority may not execute publishing agreements for works prepared by them as part of their official duties or for works in which the Smithsonian owns intellectual property. However, the Smithsonian may grant permission to certain employees to complete certain types of publishing agreements. The Appendix sets forth the officials authorized to review, negotiate, and sign publishing agreements as well as the SI employees who are granted permission to complete click licenses. These same authorizations shall apply to publishing agreements for works subject to SI's Public Access Plan.

As set forth in the Appendix, an SI author is required to attach a copy of the "[Smithsonian Supplemental Terms](#)" to a work that meets **all** the following criteria:

1. Submitted for formal publication as a journal article or a book chapter;
2. Publisher requires a click license; and
3. No royalty or payment will be earned.

When the Smithsonian Supplemental Terms is required, SI authors must download the signed copy of the document from the "[Publishing and Public Access](#)" webpage. The Smithsonian Supplemental Terms ensures certain protections and reserves certain rights for the Smithsonian that are not ordinarily included in external publishers' contracts. The Smithsonian Supplemental Terms are deemed to be accepted by the publisher upon acceptance and/or publication of the work. If a publisher notifies an SI author that it is rejecting the Supplemental Terms in whole or in part, then the SI author is required to refer the matter to OCon&PPM or, when the work is subject to SI's Public Access Plan, to SISIP for resolution before the work may be published.

Authority for Internal Publishing

When an internal publisher is publishing a work prepared on official time by an SI author, the terms of publication (such as royalty rates, deliverables, and deadlines) are memorialized in writing between the SI publisher and either the SI author or SI author's unit.

Authority for External Publishing

When the publisher is external, it is typical either to receive a publishing agreement that must be negotiated and signed or to be asked to complete an online click license. The Appendix identifies the Smithsonian offices and staff members that have authority to review, negotiate, and/or execute publishing agreements from external publishers.

ROLES AND RESPONSIBILITIES

Office of the General Counsel (OGC) is responsible for reviewing and negotiating certain SE publishing agreements and agreements for informal publications (without royalties) and, as requested by SI authors or OCon&PPM, for providing advice on legal issues that may arise from

ROLES AND RESPONSIBILITIES (Continued)

publishing agreements. Also, OGC provides ethics and other legal advice on publications that involve special circumstances, funding disclosure issues, and other contract-related issues that may arise in the course of negotiating publishing agreements.

Office of Contracting and Personal Property Management (OCon&PPM) is responsible for reviewing, negotiating, and executing all publishing agreements that involve the exchange of funds (except for certain SE publishing agreements executed by the president of SE) and any other publishing agreement that requires signature at OCon&PPM.

Director, Smithsonian Institution Scholarly Press (SISP), is responsible for managing publishing agreements associated with SISP publishing works authored by SI authors; for reviewing, negotiating, and executing publishing agreements for works that are subject to SI's Public Access Plan; and for advising SI authors on issues related to scholarly publishing.

Director, Smithsonian Books (SB), is responsible for reviewing, negotiating, and managing publishing agreements, memoranda, etc., that are associated with SB publishing works by SI authors, and for advising SI authors on issues related to trade publishing and trade distribution.

Vice President, Consumer and Education Products (CEP), is responsible for negotiating and managing agreements for works it licenses to be published by external publishers and for advising SI units on issues related to trade publishing with external publishers.

President, Smithsonian Enterprises (SE), is responsible for executing SE, CEP, and SB publishing and licensed publishing agreements.

Directors of Units (museums, research centers, and offices) are responsible for working with OGC and/or OCon&PPM to review and negotiate publishing agreements from external publishers and for executing agreements for informal publications that do not earn any royalty in accordance with the Appendix. Unit Directors are responsible for ensuring their staff who are SI authors meet all requirements associated with publishing agreements for informal publications, for which the Director and/or SI author has been granted authority. Unit Directors are also responsible, at the director's discretion, for establishing and enforcing pre-submission approval criteria within their units for formal and informal publications authored by their staff.

SI employees and, in particular, SI authors are responsible for complying with all requirements related to contracting authority as described in this directive and the Appendix. SI authors are responsible for appropriately and responsibly exercising any authority granted in this directive and for meeting all requirements associated with publishing agreements for formal and informal publications. SI authors who choose to post preprints are responsible for considering preprint policies of publishers and journals to which they will submit. SI authors are responsible for complying with all pre-approval criteria established by their Unit Directors within their units for works intended for formal and informal publication.

REFERENCES

Documents related to publishing by the Smithsonian and SI employees:

SD 102, [Disclosing, Protecting, and Commercializing Inventions](#)
SD 103, [Smithsonian Institution Standards of Conduct](#)
SD 205, [Smithsonian Institution Research Associates](#)
SD 206, [Emeritus Designations](#)
SD 208, [Standards of Conduct Regarding Smithsonian Volunteers](#)
SD 215, [Accessibility for People with Disabilities](#)
SD 301, [Financial Management Accounting Policies and Procedures Handbook](#)
SD 314, [Contracting](#)
SD 318, [Externally Funded Sponsored Projects](#)
SD 323, [Use of Funds Handbook](#)
SD 324, [Smithsonian Enterprises Retail Revenue-Sharing](#)
SD 701, [Smithsonian Institution Fellows](#)
SD 709, [Smithsonian Institution Internships](#)
SD 814, [Management of Official Smithsonian Social Media Accounts](#)
SD 940, [Acquisition of Information Technology Products](#)
OCon Form 550, [Special Attention Purchases](#)
[Publishing and Public Access](#) landing page
Smithsonian [Plan for Increased Public Access to Results of Federally Funded Research](#)

Important Contacts:

CEP: RightsManager@si.edu
OCon&PPM Help: <https://smithsonianprod.servicenowservices.com/si/>
OGC: OGCHelp@si.edu
SB: info@smithsonianbooks.com (website: smithsonianbooks.com)
SISP: scholarlypress@si.edu or publicaccess@si.edu (website: <https://scholarlypress.si.edu>)

SUPERSEDES:	SD 806, May 9, 1986.
INQUIRIES:	Smithsonian Institution Scholarly Press (SISP).
RETENTION:	Indefinite. Subject to review for currency 36 months from date of issue.

APPENDIX: AUTHORITY FOR PUBLISHING AGREEMENTS

This Appendix applies to publishing agreements received by SI authors for externally published works. It does not apply to agreements for works published by SI units or licensed through Smithsonian Enterprises (SE). If no option below applies, contact the Office of Contracting and Personal Property Management (OCon&PPM). Authors and incumbents of positions mentioned in this Appendix must exercise authority in accordance with all applicable Smithsonian Directives and may not reassign to other SI employees any portion of the publishing agreements permissions cited herein.

Type of work?	Type of contract?	Who reviews/ negotiates contract?	Who signs?	Next steps and other requirements?
FORMAL or INFORMAL	Any type <u>and</u> royalty will be paid	OCon&PPM	OCon&PPM	OCon Help
FORMAL: • Book • Volume editor for edited collection	Contract requires signature (no royalty)	OCon&PPM	OCon&PPM	OCon Help
FORMAL: • Journal article • Book chapter (includes paper in an edited collection or conference proceedings)	Contract requires signature (no royalty)	When subject to Public Access Plan: DIRECTOR, SISP	DIRECTOR, SISP	SI author must submit a Public Access ticket.*
		When not subject to Public Access Plan: OCon&PPM	OCon&PPM	OCon Help
	Click license (no royalty)	When publisher requires the SI author to complete click license: SI AUTHOR	When publisher requires the SI author to complete click license: SI AUTHOR	SI author must: • Obtain any unit-required approvals; and • Send “Smithsonian Supplemental Terms” with manuscript submission (no later than at acceptance). If publisher does not accept the Terms, SI author must contact OCon&PPM, or SISP when subject to Public Access Plan.*
• Preprint	Click license (no royalty)	SI AUTHOR	SI AUTHOR	SI author must obtain any unit-required approvals.
INFORMAL: • Book review • Abstract • Poster • Blog • Social media content • Other	Contract requires signature (no royalty)	UNIT DIRECTOR	UNIT DIRECTOR	N/A
	Click license (no royalty)	When publisher requires SI author to complete click license: SI AUTHOR	When publisher requires SI author to complete click license: SI AUTHOR	SI author must obtain any unit-required approvals.
	No agreement received	N/A	N/A	SI author must obtain any unit-required approvals.

* To determine if a Public Access ticket is required, visit SISP's [ticket request on the Service Portal](#).