



441 G St. N.W.  
Washington, DC 20548

## Decision

**Matter of:** Department of the Interior, National Park Service—Availability of Appropriations for Nonmonetary Awards to Private Individuals

**File:** B-334711

**Date:** June 5, 2023

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### DIGEST

The Department of the Interior (Interior) asks whether it may obligate funds appropriated in the Department of the Interior, Environment, and Related Agencies Appropriations act to purchase a nonmonetary award, such as a plaque, to give to a state government employee who contributed to National Park Service programs. Generally, appropriated funds are not available for gifts. While the Government Employees' Incentives Awards Act authorizes agencies to purchase awards for federal employees who contribute significantly to agency programs, it does not cover nonfederal employees. Interior, however, retains specific authority under section 115 of the Department of the Interior and Related Agencies Appropriations Act for fiscal year 1992 to purchase nonmonetary awards for private individuals who contribute to Interior's programs. We conclude that section 115's language applies to future fiscal years and encompasses state employees; thus, Interior may obligate funds to purchase this award.

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### DECISION

A certifying officer in the Department of the Interior (Interior), National Park Service (Park Service), requested our decision under 31 U.S.C. § 3529 on whether the Park Service retains authority to purchase a nonmonetary award for a state government employee who contributed to Park Service programs.<sup>1</sup> Appropriated funds are generally unavailable for personal gifts such as a plaque unless the purchase is specifically authorized by law. See B-223447, Oct. 10, 1986; 45 Comp. Gen. 199 (1965); 5 Comp. Gen. 344 (1925). While the Government Employees' Incentives Awards Act provides broad authority for agencies to purchase awards for federal employees who contribute significantly to agency programs, the Act does not apply

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<sup>1</sup> Letter from Comptroller, Interior Region 11, National Park Service, to General Counsel, GAO (October 4, 2022) (Request Letter).

where the recipient is not a federal employee.<sup>2</sup> Interior, however, retains specific authority to purchase nonmonetary awards for private individuals who significantly contribute to Interior programs under section 115 of the Department of the Interior and Related Agencies Appropriations Act for fiscal year 1992.<sup>3</sup> As discussed below, we conclude that this provision applies to current fiscal year appropriations and encompasses state employees. Therefore, Interior may obligate funds for the purchase of such an award.

In accordance with our regular practice, we contacted the Department of the Interior (Interior) to seek additional factual information and its legal views on this matter.<sup>4</sup> Interior responded with its explanation of the pertinent facts and legal analysis.<sup>5</sup>

## BACKGROUND

Section 115 of the Department of the Interior and Related Agencies Appropriations Act for fiscal year 1992 provides:

“Notwithstanding any other provision of law, in fiscal year 1992 and thereafter, any appropriations or funds available to the Department of the Interior in this Act may be used to provide nonmonetary awards of nominal value to private individuals and organizations that make contributions to Department of the Interior programs.”

Pub. L. No. 102-154, title I, § 115, 105 Stat. 990, 1012 (Nov. 13, 1991), 43 U.S.C. § 1473b.

The Park Service seeks to award a plaque or other nonmonetary award to a state government employee who significantly contributed to regional efforts. Request Letter. The Park Service will obligate funds appropriated to it under the heading “Operation of the National Park System.” See, e.g., Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, div. G, title I, 136 Stat. 49, 353 (2022).

## DISCUSSION

At issue here is whether section 115’s language permits the Park Service to obligate an amount against future fiscal year appropriations to purchase a nonmonetary

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<sup>2</sup> 5 U.S.C. § 4501.

<sup>3</sup> 43 U.S.C. § 1473b.

<sup>4</sup> GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.: Sept. 2006), available at <https://www.gao.gov/products/GAO-06-1064SP>.

<sup>5</sup> Letter from Senior Counselor, Office of the Solicitor, Interior, to Assistant General Counsel for Appropriations Law, GAO (December 15, 2022) (Response Letter).

award for a state government employee. This issue raises two questions: (1) whether section 115's authority in Interior's fiscal year 1992 appropriations act extends to Interior's future appropriations and (2) whether the authority to purchase awards for private individuals encompasses state government employees. For the reasons explained below, we conclude that section 115 permits the Park Service to obligate its current Operation of the National Park System appropriation for this purpose.

We first examine whether the language of the fiscal year 1992 appropriation permits the Park Service to obligate amounts appropriated in its current appropriation. Generally, a provision in an annual appropriations act is only effective for that fiscal year because appropriations are by nature nonpermanent legislation. B-319414, June 9, 2010. However, this presumption of nonpermanence can be overcome. The most important factor in ascertaining congressional intent is the language of the statute itself. B-309704, Aug. 28, 2007. The clearest sign of congressional intent that a provision be permanent is the presence of words of futurity. *Id.*

Here, the plain meaning of the language applies authority to purchase these awards to "fiscal year 1992 and thereafter." These are words of futurity that expressly indicate permanent intent. *See Auburn Housing Authority v. Martinez*, 277 F.3d 138, 146 (2nd Cir. 2002); B-316510, July 15, 2008; B-287488, June 19, 2001.

A related consideration is whether section 115's reference to funds appropriated "*in this Act*" (emphasis added) constrains the reach of section 115 to amounts appropriated in the Department of the Interior and Related Agencies Appropriations Act for fiscal year 1992 or if, instead, this authority remains available to Interior for amounts appropriated in later acts. If purchases of all nonmonetary awards must be obligated using only fiscal year 1992 funds, section 115's words of futurity could be rendered meaningless. Instead, we give effect to both the clear words of futurity and the limitation of "in this Act" by reading section 115 to apply to the fiscal year 1992 Department of the Interior and Related Agencies Appropriations Act as well as to successor acts enacted in subsequent years.<sup>6</sup> The current Department of the Interior, Environment, and Related Agencies Appropriations act is such a successor act, as it makes appropriations to substantially the same agencies and bureaus as did the 1992 act, including the National Park Service.<sup>7</sup> In the presence of

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<sup>6</sup> We note section 115's reach extends only to acts that succeeded the Department of the Interior and Related Agencies Appropriations Act for fiscal year 1992. For example, Interior receives several appropriations under the Energy and Water Development and Related Agencies Appropriations Act that fall outside of section 115's ambit. *See, e.g., Pub. L. No. 117-103, div. D, title II, 136 Stat. 49, 218 (Mar. 15, 2022).*

<sup>7</sup> In fiscal year 2006, the name of the Act that funded these agencies and activities changed from the "Department of the Interior and Related Agencies Appropriations Act" to the "Department of the Interior, Environment, and Related Agencies

unambiguous words of futurity, section 115 applies to current year Operation of the National Park System funds as well as to those successor acts enacted since fiscal year 1992.

Second, we consider whether the current Operation of the National Park System appropriation is available for the purpose that the Park Service contemplates here. As an initial matter, we note that the plaque or other recognition item that the Park Service seeks to purchase falls within the purposes contemplated by section 115. Appropriated funds are unavailable for personal gifts such as plaques unless the purchase is specifically authorized by law. See B-223447, Oct. 10, 1986; 45 Comp. Gen. 199 (1965); 5 Comp. Gen. 344 (1925). Here, the language of the statute authorizes Interior to “provide nonmonetary awards of nominal value.” Pub. L. No. 102-154, title I, § 115. A reasonable reading of “nonmonetary award” clearly encompasses a plaque or other visible, nonmonetary recognition display item.

Because section 115 authorizes Interior to make awards to “*private* individuals and organizations” (emphasis added), we must also consider whether the Park Service may obligate funds towards awarding an individual who is a state government employee. As in any exercise of statutory interpretation, we must read the words of the statute in the context of the overall statutory scheme. *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 133 (2000); B-328016, Sept. 29, 2016, at 4. The Government Employees’ Incentive Awards Act (GEIAA) authorizes agencies to obligate funds to purchase recognition awards for employees who contribute to the mission or improvement of the agency or who serve the public interest through notable work. 5 U.S.C. §§ 4501–4506. However, GEIAA permits agencies to make such awards only to federal employees. 5 U.S.C. § 4501; see *also* B-160419, July 28, 1967.

Here, section 115’s authority to make awards to “private individuals” complements GEIAA’s authority to make awards to federal employees. Section 115 vests Interior with limited authority to make nominal nonmonetary awards to nonfederal individuals who are outside GEIAA’s ambit. Informed by this statutory scheme, we read “private individuals” to encompass nonfederal individuals, including state government employees who make a requisite contribution to Department of the Interior programs.

## CONCLUSION

The Department of the Interior may obligate amounts appropriated in its current Department of the Interior, Environment, and Related Agencies Appropriations act to

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Appropriations Act.” See Pub. L. No. 109-54, title I, 119 Stat. 499, 507 (Aug. 2, 2005).

purchase a plaque or other nonmonetary award of nominal value to recognize a state government employee's contributions to Interior programs.

A handwritten signature in cursive script that reads "Edda Emmanuelle Perez".

Edda Emmanuelli Perez  
General Counsel