

Senate Committee on Rules and Administration
Testimony
Smithsonian Institution Acting Secretary
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Thank you for this opportunity to testify again before the Senate Committee on Rules and Administration.

Ever since I became acting secretary three months ago, I have been focusing on three priorities: strengthening the public trust in the Smithsonian; working with the Board of Regents to improve governance, communication and accountability; and making sure that the all our key programs and priorities are strong. As we review the governance of the institution, it is important that we continue to focus on our core mission, and take steps to strengthen our programs and improve our facilities.

During the last three months, I have held more than 25 town hall meetings across the Smithsonian, met with most of the advisory boards of our museums, and reached out to members of Congress and other key supporters. It is clear to me that everyone has deep affection and respect for the Smithsonian, and we all want to work together to make the Institution stronger in the future. I would like to thank our staff and volunteers for looking after our collections, carrying out our research, producing new exhibitions and education programs, and their ongoing dedication and commitment to our mission. I am pleased to report that activities across the Smithsonian's museums, research centers and the National Zoo continue to be strong and there are many exciting results to share with our visitors. I am also pleased to report that attendance at our museums and the National Zoo topped 10 million for the first five months of the year, and we expect to have more than 24 million visitors by the end of the year.

As you are well aware, the Smithsonian has been reviewing its governance practices in recent months. I have always thought that where there is crisis there is opportunity, and have no doubt the Smithsonian will come out of this difficult time as a strengthened Institution. The Smithsonian's Board of Regents adopted 25 recommendations last week issued in a report, and we are moving forward with a vigorous, thoughtful and thorough reform agenda. Our work is not yet done, but we have definitely turned a corner—and there will be no turning back. We have entered a new era of oversight, transparency, accountability, and cooperation with Congress. Our goal is much more than to fix past problems, our goal is to become a leader in good governance. We have started down that path.

As you know, the Smithsonian's Board of Regents commissioned a three-person Independent Review Committee to review aspects related to compensation and expenses, as well as the Regents' response and actions. The committee, composed of three distinguished citizens who were not members of the Board of Regents, was chaired by Charles A. Bowsher, a former Comptroller General of the United States; he was joined by

Stephen D. Potts and A.W. “Pete” Smith, Jr. The committee issued its report last week and we are now reviewing their recommendations. We are grateful for all the hard work of the Independent Review Committee.

The Board of Regents also created a new, permanent Committee on Governance. The committee compared the governance of the Smithsonian with best practices of comparable organizations to respond to governance-related issues. Regent Patricia Stonesifer, head of the Bill and Melinda Gates Foundation, chaired this new standing committee; she was joined by fellow Regents Congresswoman Doris Matsui and Robert Kogod. Other members are Walter Massey, a former Regent pending reappointment; and Diana Aviv, president and chief executive officer of Independent Sector, a national leadership forum. The committee issued its report last week; it focuses on three priority areas: 1) Effective Board and Committee Structure; 2) Effective Monitoring, Oversight and Information Flow; and 3) Effective Transparency. The Board of Regents accepted the report at its meeting on June 18th. We are now reviewing and implementing the recommendations.

I want to take this opportunity to thank the entire Board of Regents, the Governance Committee, and particularly Patricia Stonesifer who chaired the committee, for their immeasurable contributions to the Smithsonian at a crucial time in its history.

These two committees had different tasks but a similar goal—a better Smithsonian. The IRC report was designed to review past actions and decisions related to compensation and expenses under the former Secretary. The Governance Committee examined best practices in governance of non-profit organizations and compared them to the Smithsonian, and came up with a blueprint for change. In spite of the different tasks, the conclusion and recommendations are remarkably similar. As the Regents’ Governance Committee report notes:

Reaching similar results from such dissimilar approaches gives the Governance Committee added confidence that the critical weaknesses and failures prompting these reviews have been identified and addressed. (p.2)

I agree with that assessment, but before I discuss those reports in detail, it is important to recall briefly the history of the founding of this great Institution because it informs today’s discussions.

The Smithsonian in its structure is a unique entity, an independent trust “establishment” of the United States, created by Congress as a legislative response to the acceptance of the bequest from English scientist James Smithson. It was a gift scrutinized from every angle. After nearly 10 years of debate in Congress about how to handle the unprecedented bequest, legislation to establish the Smithsonian was enacted on August 10, 1846.

President John Quincy Adams, subsequently a Congressman from Massachusetts, was appointed chairman of the Select Committee formed by the House of Representatives to

consider the unusual Smithson bequest. In his will of 1826 Smithson bequeathed "...the whole of my property...to the United States of America, to found at Washington, under the name of the Smithsonian Institution, an Establishment for the increase and diffusion of knowledge among men."

Adams felt strongly that Congress alone, and not the Executive branch, was competent to act regarding the acceptance of Smithson's bequest. Adams was also keenly aware of the unique responsibilities and legal obligations of accepting the bequest. As the committee he chaired wrote in its report, "In the commission of every trust, there is an implied tribute of the soul to the integrity and intelligence of the trustees; and there is also an implied call for the faithful exercise of those properties to the fulfillment of the purpose of the trust." It was this commitment to the "tribute of the soul" and the "call for the faithful exercise of these properties" that motivated Congress to establish the Smithsonian as a trust of the United States, though independent from the formal branches of government. To do so, Congress took an interesting, deliberate, and intentional path.

Congress determined that it had authority to receive the trust for a charitable purpose in the District of Columbia. It was a reference to Congress's special authority under Article I of the Constitution, to exercise exclusive legislation and jurisdiction over the District. Congress certainly would not have invoked this particular power if it had intended to establish the Smithsonian within a department of the executive branch.

Congress' intent to establish the Smithsonian outside the executive branch is also clear from the governing structure it created for the Institution. Congress directed that the Smithsonian's Board of Regents be composed of the Vice President, the Chief Justice of the United States, three members of the Senate, three members of the House, and nine (originally six) private citizens of the states and the District of Columbia.

Congress placed representatives from all three branches of government on the Board of Regents to signal to the country, and indeed the world, the importance of this new Institution, and that the entirety of the government was responsible for the execution of the trust's purposes. It would be guided by experienced, accomplished men and women of stature. Over the decades, the prestige and wisdom of the Board have been vital to the success of the Smithsonian.

Congress decided to establish an institution, as an 1855 House Committee Report states, "separate in all its relations from any and every other" and "to give it a distinct and substantive existence, and insure independence and efficiency of operations."

The long and illustrious history of the Smithsonian is a product of this early Congressional wisdom. Perhaps this wisdom was best summed up by a member of the judicial branch of government when Justice Holmes wrote in 1928, "Congress long ago established the Smithsonian Institution, to question which would be to lay hands on the Ark of the Covenant...I think it would be lamentable even to hint a doubt as to the legitimacy of the action of Congress in establishing the Smithsonian as it did."

So, it was James Smithson's bequest that launched the Smithsonian, but the debate and counsel of the Congress helped to shape it from day one—and does so to this day. Without the generous support of the Administration and the Congress, the Smithsonian simply would not be able to function. We appreciate the support and look forward to working with members in the future.

And, as I mentioned, we now have two insightful reports to guide us as we move into a new era.

Last week, the Smithsonian's Board of Regents adopted a new set of governing practices to strengthen the board's oversight of the Institution. The new and updated practices, spelled out in the Committee's 55-page report produced after extensive deliberation, directly address recent congressional concerns that the Regents had been remiss in their oversight.

The new policies provide guidelines for executive compensation; prohibit staff from serving on corporate boards; call for a new system to review executive compensation, more in keeping with nonprofit practices; establishes a new Smithsonian-wide leave policy; and strengthens the roles of the inspector general, general counsel and chief financial officer.

Specifically the new and updated governing policies to be implemented by the Secretary and staff in the coming months include:

1. The Secretary, Deputy Secretary and senior staff will not be permitted to serve on corporate boards.
2. Compensation for the Secretary and executives will follow the best practices of the nonprofit sector. The regents' committee on compensation resources will be independent of the Secretary; outside compensation consultants will be engaged by and report directly to the committee; the Secretary's benefits will be examined for reasonableness in light of comparable market information; and all decisions about executive compensation will be documented in the regents' minutes.
3. The Chief Financial Officer and General Counsel will have direct access to the Board of Regents. As the report states, "The General Counsel shall have the right and obligation to bring directly to the board ... any information on legal or compliance matters that he determines should be brought to their attention."
4. Smithsonian Business Ventures will follow established Smithsonian guidelines in such areas as compensation and human resources, contracting, travel and accounting. Exemptions to general policies must be approved by the Secretary and the Regents.
5. The Smithsonian will establish an official policy by the end of this year that is in keeping with the principles of the Freedom of Information Act. Although the

Institution is not an executive branch agency and therefore is not covered by FOIA, it has been guided by the Act's principles. However, there has not been a clear policy statement for the Smithsonian on this matter.

The Governance Committee is not done. During the next seven months and beyond, members will continue to identify areas in need of improvement and present its findings to the full board.

We have also reviewed the Independent Review Committee (IRC) report, which includes 11 findings mostly related to the compensation and expenses of the Secretary, and a number of recommendations related to the Board of Regents and Smithsonian policies. Nearly all of the recommendations from the IRC report have been included in the recommendations adopted by the Board of Regents last Monday. It is important to note that the IRC report found the Smithsonian overall to remain a strongly ethical institution despite problems they identified as part of their review.

As you know, the Smithsonian's Board of Regents' *ad hoc* committee is conducting the search for the 12th Secretary of the Smithsonian. The committee is chaired by Regent Alan Spoon and has eight members, and two advisory members: Rick West, founding director of the National Museum of the American Indian, and Irwin Shapiro, senior scientist and former director of the Harvard-Smithsonian Center for Astrophysics.

As that search continues, the vital work of the Smithsonian continues apace. For example...

Our 41st annual Smithsonian Folklife Festival opens tomorrow on the National Mall of the United States. While there are hundreds of cultural festivals across the country, none can top the Smithsonian Folklife Festival—in size, scope, diversity or impact. The Festival is a mammoth task requiring years of planning, generous sponsors, experience, skill and many hands.

This year, we are proud to feature three programs at the Festival. *The Mekong River: Connecting Cultures* includes some 250 artists from five nations: Yunnan China, Thailand, Laos, Cambodia and Vietnam. It examines how culture flows between and amongst these nations—and arrives upon our shores in the United States. *Northern Ireland at the Smithsonian* highlights the living cultural heritage of a region close to the hearts of many Americans, and comes at a propitious time in its history—political reconciliation. Now, visitors have the opportunity to rediscover Northern Ireland through its music, sport, artistry, and food. For the local crowd, the Festival features the *Roots of Virginia Culture*. This program includes Native peoples, those from Kent County, England, and from West Africa, and demonstrates how three cultures drawn together through the settlement of Jamestown 400 years ago set in motion a cultural interchange that continues today.

More than 500 years ago, Portugal launched a vast cultural interchange. *Encompassing the Globe: Portugal and the World in the 16th and 17th Centuries* just opened two days

ago at the Sackler Gallery and the National Museum of African Art. It documents the cross-cultural dialogue galvanized by Portugal's world-trading network in the 16th and 17th centuries. The President of Portugal was here last week to help us celebrate.

I recently returned from New York City where our National Museum of African American History and Culture museum exhibition *Let Your Motto Be Resistance: African American Portraits* is on view at the International Center of Photography through Sept. 9th. It then will go on a national tour. The exhibition features 100 photographs, taken over 150 years, of well-known African American abolitionists, artists, athletes, scientists, writers, entertainers, and statesmen. The photographs come from the collections of our National Portrait Gallery.

Pictures of the North and South Poles tell a powerful story. The Smithsonian is taking an active role in International Polar Year, a global scientific initiative. Thousands of scientists and research organizations representing 60 countries are contributing to various initiatives. Last month, the Smithsonian hosted a two-day scientific symposium funded by the Smithsonian with the National Science Foundation on six themes: polar astronomy, systematics and biology of polar organisms, environmental change and polar marine ecosystems, the history of International Polar Year, under-ice research, and Arctic cultural studies.

We will use the internet to expand the scope of all our initiatives. For many of our 23 million annual visitors, traveling to Washington is a singular achievement. Countless others in the United States and around the world never have the chance. Our goal is to bring the majority of Smithsonian collections to every corner of our country and the globe: the art masterpieces, the artifacts, the rare minerals and plant specimens, the strange creatures of the deep, all available with the click of a mouse. We project 450 million online visitors by 2012, more than four times the current level, so the potential is enormous. We will use the Internet to "level the playing field" for teachers and students from rich and poor countries alike.

Exciting Smithsonian Websites are breaking new ground and drawing high praise. This is reflected in three recent Webby Awards to: the Smithsonian Photography Initiative (SPI) website, <http://Photography.si.edu>, which offers access to a selected cross-section of the Institution's 13 million photographic images; to the Cooper-Hewitt National Design Museum's website describing their new program, "People's Design Award" (<http://PeoplesDesignAward.org>); and to the Smithsonian's gateway to more than 1,200 free educational resources, www.smithsonianeducation.org.

This education gateway shows how the Smithsonian's treasures can be drawn into the classroom. A teacher can enter his or her state into the search engine and find lesson plans, virtual exhibitions, photographs, artworks, and databases of research information geared to specific curricula and state standards. And we're doing much more for education.

The Smithsonian Center for Education and Museum Studies (SCEMS) is collaborating with the Council of Chief State School Officers (CCSSO) to create new ways for teachers and students to access Smithsonian collections and experts. The purpose of the collaboration is to enrich classroom instruction for all students. SCEMS, as part of the collaboration, leads SI-based professional development opportunities for the State Teachers of the Year

The National Sciences Resources Center (NSRC), a partnership with the National Academies, is helping improve science education in school districts that enroll 22% of the United States' K-12 student population. Using the NSRC's reform model, Washington State, Delaware and other states are providing evidence of the effectiveness of that model in improving student achievement in science, mathematics, and reading.

And at the National Zoo, and all across the Smithsonian, we have our fingers crossed for another panda pregnancy.

One of my top priorities as acting secretary is to ensure that our ambitious plans move forward. The Smithsonian has so much to offer the public in terms of education, outreach, research, exploration, exhibitions, and much more. We've built up great momentum and it must continue.

The Smithsonian is keeper of our nation's historic, scientific, artistic, and cultural heritage. It tells the story of what it means to be an American. In cooperation with the Congress, the Smithsonian will move ahead with its ambitious plans and continue to provide the American people and visitors from around the world with an invaluable service.

Again, thank you for this opportunity to testify. I'd be happy to answer any questions.

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