

SUMMARY OF REPORT

The Audit Review Committee of the Board of Regents of the Smithsonian Institution sought, and the Board of Regents authorized, the employment of a consultant "to conduct an independent study of the Smithsonian's relationship to the Federal Government. Following is a summary of the report prepared pursuant to that authorization.

Interviews of concerned persons in and outside of Government disclosed a rather overwhelming approbation of the Smithsonian Institution's programs as a whole and a general feeling that their quality was high. However, many of the most knowledgeable commentators expressed concerns about administrative policies, practices, or methods.

The interviews re-emphasized concerns similar to those expressed during the course of appropriation hearings with respect to various research awards programs and the Smithsonian Science Information Exchange. Concern was also expressed that the Congress was too often "surprised" by new programs or projects, some started with trust funds and then switched over to Federal funds. The concerns over "surprises" and over the awards programs appeared to have generated a more basic uneasiness over the Smithsonian's management policies and practices and its use of appropriated and trust funds.

THE RELATIONSHIP BETWEEN
THE SMITHSONIAN AND
THE CONGRESS

Of fundamental importance in considering specific steps which can be taken to eliminate Congressional concerns is the definition, in as clear terms as possible, of the relationship between the Smithsonian Institution and the Congress. Examination of the Smithson will, the 1836 and 1846 Acts, the authorization and funding patterns of the Institution, and the administrative relationships which have developed between the Institution and the rest of the Government produce the following highlights of that relationship: (1) Smithson clearly wanted the United States to be involved in the Institution, since he gave his property to the United States of America; (2) Congress accepted this involvement and took statutory action in 1836 to accept the bequest and in 1846 to carry out the trust; (3) growing Federal appropriations over the years have tended to further emphasize the Federal nature of the Institution; and (4) administrative actions involving the use of appropriated funds have followed the prevailing Federal agency pattern and the trust funds, and personnel paid from them, have been covered under several Federal statutes of general application.

In the above circumstances, the Smithsonian Institution seems practically and operationally to be a Federal "establishment," which was created to carry out the trust objectives of the Smithson will. The charter and mission of the Institution are broadly set forth in the 1846 Act; later legislation adds detail, but not scope.

The confusion as to the nature of the Smithsonian (whether it is "private" or Federal, for example) seems to have come about because the Regents and the Secretary have several kinds of funds at their disposal for achieving the Institution's basic mission.

Smithsonian trust and self-generated funds are used by the Regents and the Secretary with wide discretion and with only very general Congressional oversight to insure conformity with the trust. For about 100 years, however, the Institution's largest single source of income has been funds appropriated to it by the Congress in accordance with normal budget and appropriation procedures. These funds are not treated any differently from funds appropriated to Executive or other agencies of the Government. All of the applicable statutes and rules and constraints apply, and the Congress' oversight responsibility is the same as that involved in other expenditures from Federal appropriations.

Recognition and general acceptance of the Smithsonian as a Federal establishment spending funds derived from several sources according to differing statutes and operating practices would clarify and simplify relationships between the Smithsonian and the Congress without adversely affecting the interests of either. The Congress' oversight rights and responsibilities with respect to appropriated as well as non-appropriated funds would be preserved. The Smithsonian's unique characteristics would also be preserved, including management by the Regents and the Secretary and the program flexibility derived from having non-Federal funds at their disposal.

The table on page 19 of the report deals with certain questions as to the authority of the Smithsonian with respect to real property under its control.

RECOMMENDATIONS

The recommendations which follow center around the basic question of the accountability of the Smithsonian to the Congress, including aspects of the Institution's internal structure and management processes which affect accountability.

I. Improving the accountability of the Institution to the Congress

1. The Regents and the Secretary should adopt the policy of seeking specific authorizations for all significant new programs or projects involving the use of Federal funds. While the terms of the 1846 Act frequently have been deemed adequate to encompass new activities that are clearly for the increase and diffusion of knowledge, specific authorization will ensure Congressional awareness.

2. The Regents and the Secretary should adopt a policy of discussing with the Appropriations Committees any proposed use of trust funds which may involve the future expenditure of Federal funds. Such discussion should take place at a timely point before any commitment is made by the Institution.

3. The Regents and the Secretary should establish a 5-year forward planning process for the Institution covering all activities. Such a process should establish the general direction of the Smithsonian program

efforts and identify areas for priority and emphasis, but permit flexibility enough to take advantage of ad hoc opportunities. It will be a useful management tool, will provide a basis for periodic oversight hearings by the authorizing committees, and will communicate to those committees and the appropriations committees important information about the forward plans of the Institution.

4. With regard to various research awards programs, in addition to the changes proposed by GAO, the Institution should adopt the practice of a special review by the Regents or the Executive Committee thereof, of any awards which the Secretary believes might be perceived by the Congress or the public as self-serving or inappropriate.

II. Internal management matters

1. As an early and fundamental step in the planning process, the Smithsonian Institution should develop a comprehensive list with informative descriptions of activities which it carries on. Administrative and internal management functions should be listed and described separately. Such a list, kept current, will help to describe the Smithsonian to the Congress as well as to the public in a systematic and consistent manner and will permit appropriate note to be taken by the Regents, Congressional committees, and the public, of significant changes in the Institution's activities. As a related matter, the Institution should develop and keep up-to-date an organization chart accurately and completely reflecting the structure of the Institution.

2. The Institution should develop and issue general policies for the use of its trust funds. Such a policy statement will be extremely useful in communicating to the Congress the intentions of the Regents and the Secretary with respect to trust funds, and in clarifying differences between the use of such funds and appropriated funds. The 1846 Act contemplated that the Regents and the Secretary would have flexibility to use trust funds subject only to general Congressional oversight. The policy statement should be as specific as possible with flexibility afforded by a process for review by the Regents of proposed exceptions. The policies should extend to the identification of the categories of positions which would normally be paid from trust funds.

3. The Institution should establish a new, permanent position of Under or Deputy Secretary. The incumbent would be responsible for day-to-day operation and internal management of the Institution. Under the present law, he would be appointed by the Secretary but the selection process should actively involve the Regents. The Under/Deputy Secretary should be chosen for his managerial training, experience, and skills, rather than for scientific or cultural achievements and interests. With this background, he would not normally be a successor to the Secretary.

With the growth of the Institution in recent years, and the great diversity of its programs, its management has become a very complex and difficult task, perhaps as difficult as for any activity of its size. To help cope with this growing complexity, I believe the position of the Deputy

or Under Secretary should be a permanent addition to the management structure. His availability will also have the further advantage of permitting the Secretary to concentrate his attention on broad policy matters, substantive leadership and program innovations, and scientific interests which have been the concern of all Smithsonian Secretaries.

In addition to giving day-to-day direction to the management and service staffs of the Institution, the Deputy should take the lead in identifying and developing solutions (or alternative courses of action) to major policy and program questions at the request of or for consideration by the Secretary. He should also share with the Secretary, along mutually agreeable lines, the day-to-day supervision of the "line" activities of the Institution as they affect established program objectives, sound management practices, and accountability concerns. The Deputy Secretary should work through existing institutional staff. He should neither duplicate nor supplant existing key staff but should combine his and their efforts to add new strength to the Smithsonian's management team.

4. The Smithsonian's Office of Audits should be augmented by such additional positions as will permit it to maintain a 5-year audit cycle. Also, that Office should be directed to send copies of its audit reports to the Regents' Audit Review Committee at the same time that they are transmitted to the Secretary.

III. Recommendations contained in the GAO's report

The GAO's recommendations appear generally sound, and the report indicates general concurrence in them. However, certain modifications in approach are discussed in the report.

REPORT TO THE AUDIT REVIEW COMMITTEE
OF THE
BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION
by
PHILLIP S. HUGHES

By his letter of May 16, 1977, Senator Henry M. Jackson, in his capacity as Chairman of the Smithsonian's Audit Review Committee, set forth the circumstances which motivated that Committee to recommend, and the Board of Regents to authorize, my employment "to conduct an independent study of the Smithsonian's relationship to the Federal Government." The letter refers to the Regents' direction to the Audit Review Committee to undertake a review of a report of the Comptroller General of the United States, dated March 31, 1977, on the Smithsonian Institution; it also refers to concerns in the Congress both over matters addressed by the Comptroller General and over fundamental relationships of the Smithsonian to the Federal Government.

Senator Jackson indicated that the purpose of my study was "to define the Institution's present charter and its relationship to the Congress and the Executive Branch of the Government, and to recommend whatever changes seem desirable to clarify those relationships and strengthen the Smithsonian's present charter and its accountability to the Congress." The Regents' goal, he indicated, "is to identify opportunities for improvement while, at the same time, preserving the unique qualities that have made the Smithsonian such a source of national pride and achievement."

In my reply of May 20, 1977, I informed Senator Jackson that the framework established by his letter was satisfactory to me and that I would schedule my work so as to complete it by the first of September 1977. By his letter of June 2, 1977, Mr. James E. Webb, Chairman of the Executive Committee of the Regents, confirmed my appointment and set forth the terms of my employment. All three letters are attached as Appendix I (pp. 28-33). This report is the product of my study and is intended to fulfill the terms of my agreement with the Audit Review Committee and the Regents.

The study itself and the preparation of the report have been of even greater interest than I had originally anticipated and have afforded me an opportunity to learn a good deal about a fascinating and unique Institution. I am hopeful that the transformation of that knowledge into conclusions and recommendations will be useful to the Regents and the Congress. I am most grateful to the Regents and the Audit Review Committee for affording me this opportunity.

I would particularly like to thank Senator Jackson and Mr. Webb for their confidence, advice, and continuing support.

I also wish to express my appreciation to those Members of the House and Senate to whom I talked, who gave freely of their time and knowledge, and to the staff of both Members and Congressional committees who shared their knowledge and candidly expressed their views. Finally, I would like to thank Secretary Ripley and members of his staff for their cooperation and assistance which was well above and beyond the

call of duty. They made themselves fully available for advice and discussion and have provided fully and promptly information which I requested.

The friendly challenges, counsel, and editorial assistance of Wilfred H. Rommel have been invaluable during the latter stages of the preparation of the report, and Mrs. Dolores McCarthy provided the competent and accommodating secretarial help which made it possible to get the report on paper.

CONCEPT AND STRUCTURE OF REPORT

The General Accounting Office's report contained three recommendations dealing specifically with the Smithsonian Research Foundation and the Smithsonian Science Information Exchange.

"We recommend that the Board of Regents dissolve the Smithsonian Research Foundation and the Smithsonian Science Information Exchange.

"Further we recommend that their operations be carried out as part of the Smithsonian's regular organizational structure.

"We recommend that the Secretary:

--propose and justify to the Congress the exemptions from existing legislation the Smithsonian believes it needs to run effectively, and with a minimum of red tape, the programs now funded through the Smithsonian Research Foundation and the Smithsonian Science Information Exchange."

The report contained three additional recommendations dealing with the Smithsonian's accountability to the Congress.

"We recommend that the Secretary:

- Continue to work with the Appropriations Committees to reach a common understanding as to the types of budget reprogramming actions the Committees wish to approve in advance.

"We recommend that the Board of Regents:

- Establish, in conjunction with the appropriate congressional committees, clear policies governing the use of Federal and private funds.
- Provide the Appropriations Committees with information on the planned use of private funds at the time appropriation requests are submitted."

The GAO's report did not deal with the broader questions of relationship between the Smithsonian and the Federal Government, referred to in Senator Jackson's letter.

To give me an adequate information base for considering the GAO's recommendations and to deal with the broader relationship concerns, I did the following:

First, I engaged in rather extensive discussions with certain concerned Senators and Congressmen, members of their staffs, staffs of pertinent committees in both Houses, Smithsonian officials and staff members, and persons outside the Government who were interested in and knowledgeable of the Smithsonian Institution. These discussions were intended to identify areas of relationship presenting special problems and to provide a focus for a review of relevant legislation and administrative practices. Attached as Appendix II (pp. 34-36) is a list of those individuals with whom I talked during the course of my two-month study.

Second, as these interviews progressed, I reviewed applicable statutes and administrative practices to gain a clearer conception of the Institution and of the basic framework underlying its relationship with the Congress and the Executive Branch. It was my expectation that, by analyzing problem areas in relation to the statutes and administrative practices, it would be possible to recommend improvements which would resolve any significant relationship problems which were identified.

AREAS OF MAJOR CONCERN

Significantly, my interviews disclosed a rather overwhelming approbation of the Smithsonian's programs as a whole and a general feeling that their quality is high. Nevertheless, many of the most knowledgeable commentators expressed a sometimes vague but often quite specific concern about its administrative policies, practices, or methods. These concerns ranged from a general apprehension that the management of so large and diverse an enterprise was too decentralized to more specific concerns such as those noted below.

First, the concerns expressed during the course of appropriation hearings (and dealt with in the GAO's report) with respect to the research awards and foreign currency programs and the Smithsonian Science Information Exchange were reiterated, sometimes with considerable force. Basically, those who commented seemed to feel that, whether or not these programs were in fact self-serving, their structure and administration made them appear to be so. Of particular concern was the financing of the research awards program.

Second, there was evident a strong concern that the Congress was too often "surprised" by new programs or projects, some of which were started with trust funds and then switched over to Federal funds. The GAO report's references to greater accountability have obvious relevance here.

Third, the concerns over "surprises" and the awards programs appear to have generated a more basic uneasiness concerning Smithsonian policies and practices governing the use of appropriated and trust funds. The view was expressed by some, including the GAO, that there should be firm, specific policies for the uses of Federal and trust funds.

Fourth, a few expressed concern that the unusual diversity, decentralization, and flexibility afforded the Smithsonian might permit misuse of funds available to it. As I have made clear, it was not the purpose of my study to investigate this area of concern, and I presume that the investigative staff of the House Appropriations Committee will look into it during the course of its review of Smithsonian activities. However, I have included recommendations which are directed toward the improvement of the management of the Institution and which have relevance to this concern.

In summary, the general picture which my interviews have painted is one of friendly concern by interested persons that, despite the tremendous achievements of the Institution, its management operations may need tightening and its accountability to the Congress does need to be improved.

THE RELATIONSHIP BETWEEN
THE SMITHSONIAN AND
THE CONGRESS

Of fundamental importance in considering specific steps which might be taken to eliminate Congressional concerns is the definition, in as clear terms as possible, of the relationship between the Smithsonian and the Congress. The purpose of this section is to review briefly the history and nature of this unique establishment as reflected in enabling Acts and other key documents and in its financial and administrative practices.

Theories have been advanced that the Institution is "private" not Federal in character; that there are two Smithsonians, a "private" and a Federal; that the Institution is located in the Executive Branch or in the Legislative Branch; or that it is in the Federal Government but outside any of the three branches. For reasons indicated below, I have concluded that the Smithsonian is a Federal establishment. However, the objectives of this report do not require determining where it is located in the spectrum of the Federal Government so long as its relationships to the Congress and to the Executive Branch, as well as its lines of accountability, as defined in the Acts of Congress and in practices, are identified. I believe these relationships and lines can be described with reasonable clarity by examining the Smithsonian will, the 1836 and 1846 Acts, the authorization and funding patterns of the Institution, and administrative relationships which have developed between the Institution and the Executive Branch and the Congress.

With respect to the Smithson will, I believe it is fundamental that Smithson bequeathed the whole of his 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." (Underscoring for emphasis.) Since he could more easily have created a totally private institution, had he wished, it seems unavoidable that he wished the Government of the United States to be involved in administering the trust.

The 1836 and 1846 Acts indicate the acceptance of the bequest on Smithson's terms. These Acts underline the U.S. Government's involvement in the establishment of the Institution and its consequent responsibilities. They were necessary to effectuate the bequest, since Smithson specifically bequeathed his property "to the United States of America."

In this connection, in December 1835, President Jackson transmitted to Congress a report on the bequest, emphasizing the need for legislative action by stating:

"The Executive having no authority to take any steps for accepting the [Smithson] trust and obtaining the funds, the papers are communicated with a view to such measures as Congress may deem necessary." (Underscoring for emphasis.)

There has been no really generic legislation with respect to the Smithsonian since the 1846 Act which, with the 1836 Act, was Congress' response to President Jackson's referral. All later legislation has been for specific and limited purposes.

The first report of the first Secretary of the Smithsonian, Joseph Henry, dated December 13, 1847, observed:

"That the Institution is not a national establishment, in the sense in which institutions dependent on the government for support are so, must be evident when it is recollected that the money was not absolutely given to the United States, but intrusted to it for a special object, namely the establishment of an institution for the benefit of men, to bear the name of the donor, and, consequently, to reflect upon his memory the honor of all the good which may be accomplished by means of the bequest." (Underscoring for emphasis.)

Within a few years, however, the Regents sought, and the Congress provided, Federal funds to supplement the trust funds. The Federal funds were intended to carry out purposes consistent with the objectives of the 1846 Act, but beyond the resources provided by Smithsonian. Generally speaking, they were appropriated to finance the "national collections" which were accumulating at a rapid rate. For about a century, Federal appropriations have provided most of the financial support for Smithsonian activities. The receipt and use of these funds over the years has obviously made the Institution more, rather than less, "national," to use Secretary Henry's term.

Relationships between the Smithsonian and the Executive Branch and the Smithsonian and the Congress have not followed a uniform pattern. Under some circumstances, the Institution has been excluded from statutes which normally apply to Federal agencies. Under other circumstances, it has been included in such statutes or has chosen to follow program or administrative procedures which are substantially the same as those relating to Executive agencies.

For example, Federal funds appropriated to the Institution are subject to the laws and regulations governing Federal budgets and

expenditures, including audit by the GAO. Its employees who are paid from Federal appropriated funds have the benefits and the attendant restrictions of the Civil Service system. It receives assistance from the General Services Administration and may use Federal real and personal property. On the other hand, the uniquely constituted Board of Regents, in whom responsibility for the administration of the Institution is vested by statute, has the duties of a trustee with regard to trust funds of the Institution with independent discretion. On balance, the ad hoc development of the Institution's activities reflects a pronounced Federal tilt, dictated largely by the preponderance of Federal funding.

In summary, then: (1) Smithson clearly wanted the United States Government to be involved in the Institution since he gave his property to the United States of America; (2) Congress accepted this involvement and took statutory action in 1836 to accept the bequest and in 1846 to carry out the trust; (3) growing Federal appropriations over the years have tended to further emphasize the Federal nature of the Institution; (4) administrative actions involving the use of appropriated funds have followed the prevailing Federal agency pattern; and (5) the trust funds, and the employees paid therefrom, have been covered under several Federal statutes of general application; e.g., the Federal Tort Claims Act, the Federal Employees Compensation Act, the Occupational Safety and Health Act, and the Unemployment Compensation for Federal Employees program.

This background leads me to conclude that the Smithsonian Institution is practically and operationally a Federal instrumentality, agency, or "establishment" (to use the term of the Smithson will and the 1846 Act), which was created by Congress to carry out the trust objectives of the Smithson will. Thus, while the Institution does not "govern" in the customary sense and was not intended to be governmental in its basic character, it is a Federal establishment.

The charter of the Institution is essentially set forth in the 1846 Act, which incorporates the Institution, sets forth its mission in broad terms, provides for the appointment and terms of office of the administering Board of Regents, provides for the election by the Board of a Secretary and the establishment of an Executive Committee of the Board, and authorizes the Secretary to employ "assistants." All later legislation is essentially within the framework established by that Act and adds detail rather than scope to the charter.

The mission of the Institution also is broadly set forth in the 1846 Act, as "the increase and diffusion of knowledge among men." As with the charter, later legislation adds detail but not scope to this very broad mission statement. The Smithsonian Institution is now in its 132nd year of existence, and its programs extend over a substantial part of this mission spectrum. The program and activity listing in the Smithsonian Year 1976 "Contents" section is illustrative:

SCIENCE

Center for the Study of Man
Chesapeake Bay Center for Environmental Studies
Fort Pierce Bureau
National Air and Space Museum
National Museum of Natural History
National Zoological Park
Office of International Programs
Radiation Biology Laboratory
Smithsonian Astrophysical Observatory
Smithsonian Science Information Exchange, Inc.
Smithsonian Tropical Research Institute

HISTORY AND ART

Archives of American Art
Cooper-Hewitt Museum of Decorative Arts and Design
Freer Gallery of Art
Hirshhorn Museum and Sculpture Garden
Joseph Henry Papers
National Collection of Fine Arts
National Museum of History and Technology
National Portrait Gallery
Office of Academic Studies
Office of American Studies

MUSEUM PROGRAMS

Conservation-Analytical Laboratory
National Museum Act Program
Office of Exhibits Central
Office of Horticulture
Office of Museum Programs
Office of Registrar
Smithsonian Institution Archives
Smithsonian Institution Libraries
Smithsonian Institution Traveling Exhibition Service

PUBLIC SERVICE

Anacostia Neighborhood Museum
Division of Performing Arts
International Exchange Service
Office of Elementary and Secondary Education
Office of Public Affairs
Office of Smithsonian Symposia and Seminars
Reading is Fundamental, Inc.
Smithsonian Associates
Smithsonian Institution Press
Smithsonian Magazine

The question has been raised whether current circumstances make it desirable that the charter or definition of mission be modified. I believe that the broad legislative charter and definition of mission, which have played such an important part in bringing the Institution to its present high level of development, are still suitable and effective. Any problems of mission definition and clarification can be better approached, in my judgment, by means other than statutory changes, and I have made some recommendations later in this report as to such means.

I believe that the confusion as to the relationship of the Smithsonian to the Congress does not stem from the scope of its mission and charter, but has come about because the Regents and the Secretary have several kinds of funds at their disposal for achieving the Institution's basic mission--the increase and diffusion of knowledge among men. These several kinds of funds come from different sources and different provisions of law or trust restrictions are applicable to them.

First, with respect to the Smithson trust fund and subsequent unrestricted additions to it, the 1846 Act and funding and administrative practices over the years indicate that the Regents and the Secretary have wide discretion in the expenditure of the income from that fund, so long as their actions are consistent with the Institution's basic mission. In recognition of the terms of the 1846 Act and the statutory responsibilities and discretion of the Regents and the Secretary, the Congress has exercised only very general oversight responsibility with respect to these trust funds to ensure consistency with the basic mission of the trust.

Second, the Smithsonian also receives restricted trust funds from private sources and grant and contract monies from Federal agencies. Both of these are provided for specific purposes and must be spent in accordance with the stipulated terms of the grant, contract, or restricted trust agreement.

Third, for about 100 years, the Institution's largest single source of income has been funds appropriated to it by the Congress in accordance with normal budget and appropriation procedures. These funds have been appropriated by the Congress at the request of, or with the approval of, the Regents. While the purposes for which these appropriations are provided are consistent with the objectives for which the Institution was established, they enable it to do work which could not be accomplished without Federal financial support; for example, to house and display the "national collections." These funds are not treated any differently from funds appropriated to Executive or other agencies of the Government. All of the applicable statutes and rules and constraints apply, and the Congress' oversight responsibility is the same as that involved in other expenditures from Federal appropriations.

Finally, the Regents and the Secretary have at their disposal certain funds generated by the Institution itself primarily from business enterprise type activities. This category has increased in importance in recent years because of the growth and vitality of the Institution as a whole. The 1846 Act has been interpreted to authorize the addition of such funds to the corpus of the unrestricted trust funds and to authorize their discretionary use for trust purposes.

I believe that recognition and general acceptance of the above facts--that while the Smithsonian Institution is a Federal establishment, it spends funds derived from different sources according to differing statutes and operating practices applicable to each source--would both clarify and simplify relationships between the Smithsonian and the Congress without adversely affecting the interests of either. From the standpoint of the Congress, its oversight rights and responsibilities with respect to both Federal funds and all categories of non-Federal funds would be preserved. From the standpoint of the Smithsonian, its unique characteristics would be preserved, including management by the Regents and the Secretary and the program flexibility derived from having non-Federal funds at their disposal.

With respect to Congressional oversight rights and responsibilities, several factors have increased Congressional interest in trust and other funds not appropriated to the Smithsonian, but available to it: (1) the increased size, visibility, and vitality of the Institution inevitably raises questions about how it makes program choices for funding from non-appropriated, as well as appropriated, sources; (2) the total volume of Federal funds provided the Institution has grown steadily for many years and rapidly in recent years; (3) the Congress has been asked to appropriate funds for projects or programs initially financed by funds from non-appropriated sources, and (4) the total volume of self-generated funds has increased substantially in the last few years, increasing the significance of non-appropriated funds in total as well as the purposes

for which they are used. This increased Congressional interest is both understandable and warranted in my judgment and can be satisfied by the Smithsonian in a number of ways which are set out in subsequent recommendations.

Two rather basic, specific questions with regard to the Smithsonian's "charter" were raised during the course of my discussions:

1. The administrative relationship of the Institution to activities associated with it, including the National Gallery of Art, the John F. Kennedy Center for the Performing Arts, and the Woodrow Wilson International Center for Scholars.

2. The authority of the Regents and the Secretary with regard to real property under the control of the Smithsonian.

Certain background information with regard to these two matters is set forth in the next three pages of this report.

RELATIONSHIP BETWEEN THE SMITHSONIAN INSTITUTION AND ITS CONSTITUENT ELEMENTS

The "Contents" section of the Smithsonian Year 1976 (the Smithsonian's Report for the period July 1, 1975 through September 30, 1976) lists 43 museums, galleries, offices, centers, laboratories, programs, or activities of the Smithsonian. Forty of these are grouped under four major functional categories: Science, History and Art, Museum Programs, and Public Service. Three of them, the Woodrow Wilson International Center for Scholars, the John F. Kennedy Center for the Performing Arts, and the National Gallery of Art, are separately listed.

My review of the basic statutes and operating practices of the Smithsonian Institution indicates that the 43 constituent "activities" divide into only two basic administrative categories. The 40 noted above (and some additional programs not specifically listed as major entities in the "Contents" section) are under the direct administrative control of the Regents and the Secretary. There are minor differences in the scope and directness of that control, and in one case (the Joseph H. Hirshhorn Museum and Sculpture Garden) an "advisory" body has important discretionary functions relating to acquisition, retention, and exhibition of works of art in this collection. Basically, however, the Regents and the Secretary control budgeting, personnel selection, and program activities.

The three other "activities" noted above--the Woodrow Wilson Center, the Kennedy Center, and the National Gallery--are, for all practical purposes, independent of control by the Regents and the Secretary. While their statutes identify them as "bureaus" or "centers" in the Smithsonian and while such statutory language may impose some residual or receivership responsibilities on the Smithsonian, both policy control and day-to-day administration are in the hands of independent boards. The budgets of all three are independently prepared and independently justified before the Congress. The Secretary of the Smithsonian is ex officio a member of all three boards, and the Chancellor also is a member of the board of trustees of the National Gallery. However, this arrangement makes possible only coordination, not control.

Thus, while the Regents and the Secretary have the necessary authority to direct and manage the affairs of the great majority of the Institution's constituent elements, they have no such authority with respect to the National Gallery, the Kennedy Center, and the Woodrow Wilson Center. Key portions of the sections of Title 20, U.S.C. applicable to these three organizations are attached as Appendix III (pp. 37-38).

REAL PROPERTY UNDER THE CONTROL OF THE
SMITHSONIAN INSTITUTION

All real property under the control of the Smithsonian is listed below in three categories with brief comment as to the authority of the Regents and the Secretary with respect to each category.

FEDERAL TRUST PROPERTIES

Smithsonian Institution Building
Arts and Industries Building
Natural History Building
Freer Gallery of Art
History and Technology Building
Hirshhorn Museum
National Air and Space Museum
National Zoological Park
National Portrait Gallery
National Collection of Fine Arts

These properties are "appropriated to the Institution" by the terms of the 1846 Act and subsequent legislation (see 20 U.S.C., §52). It appears that such "appropriation" was intended to give the Institution the right to use such federal property for trust purposes, but not the right to mortgage the property, or to dispose of it without the consent of Congress, if no longer needed for trust purposes.

CUSTODY IN THE SMITHSONIAN

NZP Animal Conservation Center
Renwick Gallery
Properties at Silver Hill, Maryland
Barro Colorado Island

The first three properties have been transferred to the custody of the Smithsonian by the General Services Administration for the Institution's use, and at whatever time the Smithsonian ceases using these properties they would be returned to GSA. Barro Colorado Island was transferred to the Smithsonian by the 1946 Reorganization Plan No. 3 (see 20 U.S.C., §79, et seq.), and is subject to United States treaty provisions.

NON-FEDERAL TRUST PROPERTY

Barney House
Belmont Conference Center
Chesapeake Bay Center for
Environmental Studies
Cooper-Hewitt Museum

These properties have been purchased with trust funds or received by, or through private donations. To date no facilities have been constructed with appropriated funds on any of these trust fund properties, except for some repairs and minor renovations. Control and disposition of such properties is within the general discretion of the Board of Regents under the 1846 Act (see 20 U.S.C., §§41, 42, and 55). Should appropriated funds be requested for any such construction in the future, consideration will be given at that time to the appropriate protection of the federal interest.

The above categories exclude property under lease or use permit arrangements.

RECOMMENDATIONS

The recommendations which follow center around the basic question of accountability of the Smithsonian to the Congress, which is of particular concern to those with whom I have talked. Also covered are certain matters relating to aspects of the Institution's internal structure or management processes which affect accountability; however, this coverage was necessarily selective rather than comprehensive. The discussion and conclusions in the report which have to do with the Smithsonian's nature, charter and mission, as well as the processes by which it relates and reports to the Congress, are obviously of fundamental importance to the recommendations.

For convenience, the recommendations are divided into three groups: improving the accountability of the Institution to the Congress, internal management matters, and recommendations contained in the GAO's report.

I. Improving the accountability of the Institution to the Congress

These recommendations are for the purpose of improving the accountability of the Institution to the Congress without jeopardizing its essential character.

1. The Regents and the Secretary should adopt the policy of seeking specific authorizations for all significant new programs or projects involving the use of Federal funds. While the terms of the 1846 Act frequently have been deemed adequate to encompass new activities that

are clearly for the increase and diffusion of knowledge, specific authorization will ensure Congressional awareness.

Consultation with appropriate committees in specific future cases will permit the development of criteria satisfactory to the committees and the Institution as to what is a "significant" new program or project.

2. The Regents and the Secretary should adopt a policy of discussing with the appropriations committees any proposed use of trust funds which may involve the future expenditure of Federal funds. Such discussion should take place at a timely point before any commitment is made by the Institution. This will avoid "surprises" of the type noted earlier and make advance planning more realistic.

3. The Regents and the Secretary should establish a 5-year forward planning process for the Institution covering all of its activities. Such a process should establish the general direction of the Smithsonian's program efforts and identify areas for priority and emphasis. At the same time, it should permit flexibility enough to take advantage of ad hoc opportunities. If properly designed and executed, it will be a useful management tool for the Regents and the Secretary, will provide a basis for periodic oversight hearings by the authorizing committees, and will communicate to these committees as well as the appropriations committees important information about the forward plans of the Institution.

As a management tool, it will help focus the efforts of the Institution within its broad statutory mission and will establish a framework within which the Regents and the Secretary can decide to do

or not do projects which arise on an ad hoc basis. From an accountability standpoint, I believe a planning process properly carried out is a better approach to mission definition and clarification than to attempt this by statutory means. Discussions of plans and priorities with the Congress will facilitate basic communications between the Institution and the Congress and will improve both the Congress' and the Institution's awareness of each other's priorities and concerns.

4. With regard to various research awards programs, in addition to the changes proposed by GAO, the Institution should adopt the practice of a special review by the Regents or by their Executive Committee of any awards which the Secretary believes might be perceived by the Congress or the public as self-serving or inappropriate.

II. Internal management matters

These recommendations relate to selected matters of internal management which in turn affect the Institution's charter and accountability.

1. As an early step in the planning process, the Smithsonian Institution should develop and keep current a comprehensive list of activities (programs, projects, etc.) which it carries on. Administrative and internal management functions should be listed and described separately. The list should be more than a simple, "one-line" listing and should include informative descriptions of the activities and functions. Such a list, in addition to being a fundamental step in planning, will help to describe the Smithsonian to the Congress as well as to the public

in a systematic and consistent manner and will permit appropriate note to be taken by the Regents, Congressional committees, and the public of significant activity changes which will occur from time to time.

As a related matter, the Institution should develop and keep up-to-date an organization chart which accurately and completely reflects the structure of the Institution in standard form and terms.

2. The Institution should develop and set forth in concise written form general policies for the use of its trust funds. Such a statement will be very useful in communicating to the Congress the intentions of the Regents and the Secretary with respect to trust funds and in clarifying differences between the use of such funds and appropriated funds.

The 1846 Act contemplated that the Regents and the Secretary would have flexibility to use trust funds subject only to general Congressional oversight. The policies should be as specific as possible, with flexibility afforded by a process whereby the Regents would review any exceptions to the policies proposed by the Secretary. The policies should include the identification of the categories of positions which would normally be paid from trust funds. Attached as Appendix IV (pp. 39-47) is a draft example of such a statement, which was prepared by Smithsonian staff for presentation to the Secretary and to the Regents.

3. The Institution should create a new position of Under or Deputy Secretary. The incumbent should be responsible for the day-to-day operation and internal management of the Institution. Under present law,

he would be appointed by the Secretary but the selection process should actively involve the Regents. The Under/Deputy Secretary should be chosen for his managerial training, experience, and skills, rather than for scientific or cultural achievements and interests. With this background, he would not normally be a successor to the Secretary.

With the growth of the Institution in recent years, and the great diversity of its programs, its management has become a very complex and difficult task, perhaps as difficult as for any activity of its size. To help cope with this growing complexity, I believe a Deputy/ Under Secretary should be a permanent addition to the Smithsonian staff. His availability will have the further major advantage of permitting the Secretary to concentrate his attention on broad policy matters, substantive leadership and program innovations, and scientific and cultural interests which have been the concern of all Smithsonian Secretaries.

In addition to giving day-to-day direction to the Institution, the Deputy should take the lead in identifying and developing solutions (or alternative courses of action) to major policy and program questions at the request of or for consideration by the Secretary. He should also share with the Secretary, along mutually agreeable lines to be worked out between them, the day-to-day supervision of the "line" activities of the Institution as they affect established program objectives, sound management practices, and accountability concerns. The Deputy Secretary should work through existing institutional staff. He should neither duplicate nor supplant existing key staff but should combine his and their efforts to add new strength to the Smithsonian's management team.

4. The staff of the Auditor of the Smithsonian Institution should be augmented by such additional positions as will permit the Office of Audits to maintain a five-year audit cycle. Also, the Auditor should be directed to send copies of his Office's audit reports to the Audit Review Committee of the Board of Regents at the same time that he transmits them to the Secretary.

III. Recommendations contained in
the GAO's report

The GAO recommended that the Smithsonian Research Foundation and the Smithsonian Science Information Exchange (SSIE) be "dissolved" and that their operations be carried out as part of the Smithsonian's regular organizational structure.

I concur in the recommendations with respect to the Smithsonian Research Foundation. The GAO also recommended that the Secretary seek legislative exemptions needed to operate the Smithsonian research awards program, provided, of course, that such exemptions prove necessary. The Institution is exploring the need for exemptions.

With regard to the SSIE, however, I believe that other organizational locations for it should be explored as an alternative to integrating it into the Smithsonian organization. While the SSIE fits within the broad trust mission of the Smithsonian, its continued operation by the latter is not essential to other Smithsonian activities and it tends to diffuse central management responsibilities. The SSIE may well be more appropriate to, and supportive of, the basic mission of another agency. Under

these circumstances, I believe it appropriate to explore the possibility of locating the Exchange in another department or agency. OMB has initiated action to this end; and the Smithsonian Institution has furnished OMB with a discussion paper prepared by Dr. David Hersey, President of the SSIE, which outlines possible alternative organization locations. In addition to the locations discussed in that paper, I believe that the Library of Congress merits consideration.

With regard to the GAO's recommendations dealing with the accountability of the Institution, I concur in the general thrust of its recommendation regarding consultation by the Smithsonian with the appropriations committees on reprogramming. I also concur in its recommendation that those committees be provided with information on the planned use of trust funds at the time appropriations requests are submitted. The Secretary and the Smithsonian staff have been working with the committees on both of these matters. It is my understanding that the work on reprogramming is nearing completion. I also understand that the Institution intends to set forth for the committees' information its budget plans for the use of trust and other non-appropriated funds on a combined basis with its budget request for appropriated funds.

I have recommended to the Smithsonian staff that its presentation of budget plans be on a gross rather than a net basis to more adequately portray the full scope of the Institution's activities. Gross expenditures, (reflected in the Table numbered Appendix V (p. 48) are about 50 percent greater than net expenditures. They more clearly and completely reflect

the increasing importance of self-generated income as well as the significance of grant and contract funds.

As reflected in Recommendation II (2) above, I also concur in the thrust of GAO's recommendation that the Regents "Establish, in conjunction with the appropriate congressional committees, clear policies governing the use of Federal and private [sic] funds." Since appropriations are controlled through the authorization and appropriation processes, however, the recommendation appears to be addressed primarily to trust funds. The term "trust" seems more appropriate than "private" to describe such funds.

United States Senate

WASHINGTON, D.C. 20510

May 16, 1977

Mr. Phillip S. Hughes
3710 Taylor Street
Chevy Chase, Maryland 20015

Dear Mr. Hughes:

I am writing this letter in my capacity as Chairman of the Audit Review Committee of the Board of Regents of the Smithsonian Institution. As you know, the Audit Review Committee has been directed by the Board of Regents to undertake a review of a Report of the Comptroller General of the United States on the Smithsonian Institution. The Comptroller General's report was released March 31, 1977 and calls for the strengthening of the Smithsonian's financial accountability to the Congress in a number of respects. The report has also provoked considerable concern within the Appropriations Committees of the Congress not only over the specific matters addressed by the Comptroller General but over the fundamental relationships of the Smithsonian Institution to the Federal Government and how that relationship impacts on the Institution's financial and management accountability to the Congress.

The concerns now being evidenced in the Congress arise from the fact that Federal support in the form of appropriations and grants now accounts for some 90 percent of the Institution's funding. Yet, the Smithsonian retains its original character as a charitable trust accepted by the Congress and committed to a management framework substantially different from that applied to other Federal Government programs. The current debate in the Congress bespeaks a fundamental concern over the present ability of the Appropriations Committees to insure the Smithsonian's full accountability to the Congress respecting both its Federal funds and its management of the heavy Federal investment in the Institution's assets.

APPENDIX I

Mr. Phillip S. Hughes
May 16, 1977
Page 2

As you know, on May 13, 1977 the Audit Review Committee recommended and the Board of Regents authorized your employment as an outside consultant to conduct an independent study of the Smithsonian's relationship to the Federal Government. The study is to concentrate on a review and assessment of the GAO Report, the concerns that report has raised in the Congress, the Smithsonian's history, the body of laws under which it operates, and related matters. The purpose is to define the Institution's present charter and its relationship to the Congress and the Executive Branch, and to recommend whatever changes seem desirable to clarify those relationships and strengthen the Smithsonian's present charter and its accountability to the Congress. The goal, of course, is to identify opportunities for improvement while, at the same time, preserving the unique qualities that have made the Smithsonian such a source of national pride and achievement.

The Audit Review Committee and the Board of Regents are highly pleased that you have made yourself available to perform this important study. As you know, we feel you are specially qualified to bring to the task the kind of experience, impartiality, scholarship and knowledge of government operations needed for the undertaking. The Executive Committee of the Board of Regents has been authorized to take such actions as may be necessary to engage your services, to enter into an appropriate arrangement for your compensation, and to provide such facilities, staff assistance, and additional consultant services as may be necessary. Mr. James E. Webb, the Chairman of the Executive Committee, is available to assist with these matters and will expect to hear from you.

Pursuant to our earlier discussions, I understand that you will be available to devote full time to the study commencing July 5, 1977. In the meantime, and while your work proceeds, the Audit Review Committee, the Executive Committee and the Smithsonian staff will be available to assist you in every way possible.

APPENDIX I

Mr. Phillip S. Hughes
May 16, 1977
Page 3

Again, I appreciate your willingness to undertake this review, and will be available throughout to be helpful in any way I can.

Please do not hesitate to call me.

Sincerely,



Henry M. Jackson

APPENDIX I

May 20, 1977

Senator Henry M. Jackson
Chairman, Audit Review Committee
Board of Regents, Smithsonian Institution

Dear Senator Jackson:

Thank you for your letter of May 16, discussing the circumstances surrounding the Audit Review Committee's and Board of Regents' interest in and review of fundamental relationships between the Smithsonian Institution and the Federal Government, and setting forth the general framework for my work as a consultant on these matters.

The framework established by your letter is entirely satisfactory with me. I will discuss the specific terms of my employment with Mr. James Webb, Chairman of the Executive Committee of the Board of Regents of the Smithsonian Institution, when he returns to the city. I don't expect any unusual circumstances or problems in this regard. I will schedule my work in such a manner as to enable me to complete it by the first of September, 1977.

I look forward to working with you, and the Audit Review Committee on this interesting and important matter and hope that my efforts will be helpful in enabling the Smithsonian Institution to continue to perform its unique functions.

Sincerely yours,

/s/ Phillip S. Hughes

Phillip S. Hughes

3509 Chevy Chase Lake Drive
Chevy Chase, Maryland 20015

cc: Owen Malone
James Webb

APPENDIX I



SMITHSONIAN INSTITUTION

Washington, D.C. 20560
U.S.A.

June 2, 1977

Mr. Phillip S. Hughes
3509 Chevy Chase Lake Drive
Chevy Chase, Maryland 20015

Dear Mr. Hughes:

This is to confirm your appointment as a consultant to the Audit and Review Committee of the Board of Regents of the Smithsonian Institution to conduct an independent study of the Smithsonian's relationship to the Federal government, as requested by the Executive Committee of the Board of Regents. The study is to concentrate on a review and assessment of the GAO Report, the concerns that Report has raised in the Congress, the Smithsonian historical relationship with the Congress and the Executive Branch, and related matters. The purpose is to define the Institution's present charter and its relationship to the Congress and the Executive Branch, and to recommend whatever changes seem desirable to clarify those relationships and strengthen the Smithsonian's present charter and its accountability to the Congress. The goal is to identify opportunities for improvement while, at the same time, preserving the unique qualities that have made the Smithsonian such a source of national pride and achievement.

It is my understanding that you plan to devote full time to the study beginning on July 5, 1977 and to present your report on or about September 1, 1977.

Since you have stated that you wish to be paid only the difference between your current Federal retirement annuity and what would be paid were you still an Executive Level IV, your grade at the time of retirement, compensation for your services will be in the amount of \$5,400, which amount is based on a period of nine weeks. Payment will be made upon presentation of the report. The Smithsonian Institution will provide such facilities, staff assistance, additional consultant services and any other necessary expenses to carry out this assignment.

APPENDIX I

-2-

This letter contract is executed on behalf of the Executive Committee of the Board of Regents as authorized by the Board of Regents at its meeting on May 13, 1977. By copy of this letter the Secretary of the Smithsonian is authorized to administer this contract.

Please be assured that the Secretary and the staff of the Smithsonian are available to provide whatever information and assistance you may require.

Sincerely yours,

/s/ James E. Webb

James E. Webb
Chairman,
Executive Committee
Board of Regents

APPENDIX II

LIST OF PERSONS CONTACTED DURING REVIEW OF THE SMITHSONIAN INSTITUTION

U.S. SENATORS

- The Honorable Henry M. Jackson
Chairman, Permanent Subcommittee on Investigations, Governmental
Affairs Committee; Chairman, Audit Review Committee, Board of
Regents, Smithsonian Institution
- The Honorable Ted Stevens
Ranking Minority Member, Subcommittee on the Department of Interior
and Related Agencies, Committee on Appropriations

U.S. REPRESENTATIVES

- The Honorable John L. Burton
Chairman, Subcommittee on Government Activities and Transportation,
Committee on Government Operations
- The Honorable Elford A. Cederberg
Ranking Minority Member, Committee on Appropriations; Member, Board
of Regents, Smithsonian Institution
- The Honorable Joseph M. McDade
Ranking Minority Member, Subcommittee on Interior, Committee on
Appropriations
- The Honorable George H. Mahon
Chairman, Committee on Appropriations; Member, Board of Regents,
Smithsonian Institution
- The Honorable Lucien N. Nedzi
Chairman, Subcommittee on Libraries and Memorials, Committee on House
Administration
- The Honorable Sidney R. Yates
Chairman, Subcommittee on Interior, Committee on Appropriations

APPENDIX II

SENATE COMMITTEES' AND MEMBERS' STAFF

William McWhorter Cochrane
Staff Director, Committee on Rules and Administration

Dwight E. Dyer
Staff, Committee on Appropriations

Owen J. Malone
Chief Counsel, Permanent Subcommittee on Investigations, Governmental
Affairs Committee

Raymond N. Nelson
Staff, Committee on Rules and Administration

Linda L. Richardson
Staff, Committee on Appropriations

HOUSE COMMITTEES' AND MEMBERS' STAFF

Michael A. Forgash
Administrative Assistant to the Honorable Elford A. Cederberg

Helen C. Hudson
Staff Director, Subcommittee on Libraries and Memorials, Committee
on House Administration

Frederick G. Mohrman
Staff, Subcommittee on Interior and Related Agencies, Committee on
Appropriations

Cynthia M. Mora
Staff, Subcommittee on Government Activities and Transportation,
Committee on Government Operations

Byron S. Nielson
Staff, Subcommittee on Interior and Related Agencies, Committee on
Appropriations

Edwin F. Powers
Staff, Committee on Appropriations

Robert S. Royer
Counsel, Subcommittee on Libraries and Memorials, Committee on
House Administration

APPENDIX II

SMITHSONIAN INSTITUTION

The Honorable Warren E. Burger
Chief Justice of the United States; Chancellor of the Smithsonian
Institution

The Honorable James E. Webb
Chairman, Executive Committee, Board of Regents, Smithsonian Institution

The Honorable S. Dillon Ripley
Secretary, Smithsonian Institution (and key Smithsonian staff members)

OTHERS--GOVERNMENT AND NON-GOVERNMENT

The Honorable Elmer B. Staats
Comptroller General of the United States (and certain GAO staff
members working on the Smithsonian Institution)

Mark W. Cannon
Administrative Assistant to the Chief Justice of the United States

Hugh F. Loweth
Deputy Associate Director for Science and Energy Technology, Office
of Management and Budget (and staff members working on the Smithsonian
Institution)

Charles Krause
Formerly reporter, now on editorial staff, The Washington Post

Rodger A. Mastako
Director, Hillwood Museum, Washington, D.C.

Robert H. Simmons
Consultant, Arlington, Virginia

APPENDIX III

§ 72. Same; establishment; Board of Trustees

(a) There is established in the Smithsonian Institution a bureau, which shall be directed by a board to be known as the Trustees of the National Gallery of Art, whose duty it shall be to maintain and administer the National Gallery of Art and site thereof and to execute such other functions as are vested in the board by sections 71, 72 to 74 and 75 of this title. The board shall be composed as follows: The Chief Justice of the United States, the Secretary of State, the Secretary of the Treasury, and the Secretary of the Smithsonian Institution, ex officio; and five general trustees who shall be citizens of the United States, to be chosen as hereinafter provided. No officer or employee of the Federal Government shall be eligible to be chosen as a general trustee.

§ 80f. Woodrow Wilson International Center for Scholars:
Board of Trustees of the Center.

(a) Establishment.

There is hereby established in the Smithsonian Institution a Woodrow Wilson International Center for Scholars and a Board of Trustees of the Center (hereinafter referred to as the "Center" and the "Board"), whose duties it shall be to maintain and administer the Center and site thereof and to execute such other functions as are vested in the Board by sections 80e to 80j of this title.

(b) Composition of the Board.

The Board of Trustees shall be composed of fifteen members as follows:

- (1) the Secretary of State;
- (2) the Secretary of Health, Education, and Welfare;
- (3) the Chairman of the National Endowment for the Humanities;
- (4) the Secretary of the Smithsonian Institution;
- (5) The Librarian of Congress;
- (6) The Archivist of the United States;
- (7) one appointed by the President from time to time from within the Federal Government; and
- (8) eight appointed by the President from private life.

APPENDIX III

- § 76h. Bureau, Board of Trustees, and Advisory Committee-
Establishment of bureau; direction by Board of
Trustees; composition of Board

(a) There is hereby established in the Smithsonian Institution a bureau, which shall be directed by a board to be known as the Trustees of the John F. Kennedy Center for the Performing Arts (hereafter in sections 76h to 76q of this title referred to as the "Board") whose duty it shall be to maintain and administer the John F. Kennedy Center for the Performing Arts and site thereof and to execute such other functions as are vested in the Board by sections 76h to 76q of this title. The Board shall be composed as follows: The Secretary of Health, Education, and Welfare, the Librarian of Congress, the Assistant Secretary of State for Public Affairs, the Chairman of the Commission of Fine Arts, the President of the Board of Commissioners of the District of Columbia, the Chairman of the District of Columbia Recreation Board, the Director of the National Park Service, the Commissioner of the United States Office of Education, the Secretary of the Smithsonian Institution, three Members of the Senate appointed by the President of the Senate, and three Members of the House of Representatives appointed by the Speaker of the House of Representatives ex officio; and thirty general trustees who shall be citizens of the United States, to be chosen as hereinafter provided.

Above underscoring for emphasis.

September 1, 1977

SMITHSONIAN INSTITUTION POLICIES GOVERNING THE USE
OF FEDERALLY-APPROPRIATED FUNDS; PROCEEDS FROM
FEDERAL CONTRACTS AND GRANTS; AND TRUST FUNDS

Since the establishment in 1846 of the Board of Regents, the Regents have exercised their statutory authority over the uses of the Institution's trust fund income for the increase and diffusion of knowledge among men, "as they shall deem best suited for the promotion of the purpose of the testator." The Regents are authorized to accept for the Institution "money or other property by gift, bequest, or devise, and to hold and dispose of the same in promotion of the purposes thereof." This language, combined with their plenary authority (20 U.S.C., §41 et seq.) provides the Regents with necessary latitude and flexibility in the selection of projects that contribute to public education. The trust fund endowment has been augmented over the years by Federal appropriations, gifts, bequests, and payments from contracts and grants. These funds are strictly accounted for and applied to purposes designed to enhance the education and recreation of the public through the Institution's research, education, exhibitions, and publications' programs.

All funds of the Institution are administered under the direction of the Board of Regents, subject to the respective terms and conditions as required by their sources. Funds are allocated by the Secretary with

the approval of the Board of Regents, to whom the Secretary is accountable. Annually, upon presentation of budgets to the Board of Regents, it is "voted that the Board of Regents appropriates for the service of the Institution, to be expended by the Secretary, with the advice of the Executive Committee, with full discretion on the part of the Secretary as to items, the income of the Institution." Subsequently, status reports on the financial condition of the Smithsonian and on the progress of particular programs or projects funded with trust and other funds are provided to the Regents' Executive Committee and to the full Board at its regular meetings. Trust fund accounts are audited annually by a private accounting firm, and Federal accounts are audited by the General Accounting Office.

The Institution has three major groups of funds:

- Federal appropriations;
- Contracts and grants; and
- Trust funds.

Federal Funds are sought and acquired through the normal appropriation process and expended in full conformity with the regulations that apply to the use of Federal funds. The administration of such funds includes approval of the complete and detailed financial plan and work program, adherence to specific legislative authority where required, as well as conformance to standardized government personnel procedures, procurement regulations, and accountability to Congress and to the General

Accounting Office.

Traditionally, Smithsonian has acquired Federal funds in support of basic research and for the acquisition, care, maintenance, exhibition, and study of the national collections, as well as for specific construction, renovation, repair of facilities, and protection of the buildings and collections under its jurisdiction.

Contracts and Grants are received from government agencies and others to assist in the financing of specific scientific research and educational programs. Funds are granted or contracted to the Smithsonian as an educational institution, and they are administered by the Institution in its trust fund accounts. All monies are expended for the specific purposes of the contract or grant, in accordance with terms and conditions as agreed to between the parties. Such funds generally are for expenditure within a limited time. Government contracts and grants are subject to audit by the Defense Contract Audit Agency.

Policies for the Use of Trust Funds

Restricted Trust Funds are derived from gifts, bequests, grants from foundations and corporations, endowment funds and miscellaneous fund-raising activities for individual museum programs, and are used exclusively for the purposes specified.

Unrestricted Trust Funds accrue to the Institution's use from a variety of sources. These sources include interest on the original bequest; income from short and long-term investments; concessions such as food service and parking; royalties from sales of Smithsonian products (based on objects in the collections); the Resident and National Associates' programs (including the Smithsonian Magazine) and auxiliary activities such as the Museum Shops and the Traveling Exhibition Service. They also include occasional gifts or bequests of funds for unrestricted purposes.

Until recent years, little latitude was permitted in the use of the very limited amount of unrestricted funds; consequently, until recently, policies were based on precedent and practice. Surpluses in unrestricted trust funds generated by the Institution's concessions and auxiliary activities now permit additional and enhanced programs for the benefit of the public. Such increased activity has created the need for the following policies for the use of unrestricted funds.

-- Annual budgets are prepared in detail for each of the sources of funds and separate programs, activities, and organizations receiving funds. These individual budgets are drawn together into a consolidated budget for review by Smithsonian management and the Board of Regents. This budget is developed with full awareness of current and planned Federal budget

allocations, in order to achieve maximum coordination in the application of funds. Requirements to use significant amounts of trust funds to restore Federal budget cuts will be done in consultation with the Congress. Separate financial accounts are maintained, reports prepared, and results monitored and projected to assure that funds are used for approved purposes. Plans and budgets for the current and budget years will be communicated in a timely and comprehensive way to the Office of Management and Budget and the Congress for their review as part of the Federal appropriations' process. Special attention will be drawn to any proposed expenditure of trust funds which may result in a requirement for future Federal dollars.

-- Except for support specifically provided by Congress to certain activities such as the Traveling Exhibition Service and Performing Arts, expenses incurred in support of auxiliary activities are met from earned income of these activities. Space for the museum shops and for administrative purposes associated with the auxiliary activities is provided in buildings operated with Federal funds on the basis of the need to provide easy access to the public and because these support costs are far-outweighed by the application of the proceeds of the auxiliary activities to public service programs. Where losses are budgeted for certain of the auxiliary activities, they are more than offset by gains of other activities.

-- A portion of the net income of the shops, concessions, and product development programs is returned to the respective museums and galleries in recognition of their participation in the planning, development, and administration of these efforts. Budgets for such funds are prepared annually for review by Smithsonian management. Uses of these funds are for limited purposes, under the discretion of the bureau director, primarily for purchases for the collections, exhibitions, and publications; thus, maximizing the benefit of these funds to the public. Other funds which are available to the bureaus result from their own revenue-producing activities, such as operation of a parking facility at the National Zoological Park, film and planetarium showings at the National Air and Space Museum, membership drives, auctions, or other fund-raising efforts. To a large extent, these funds are dedicated to particular needs, such as parking improvements, replacement films, and educational publications.

-- Administrative services units of the Institution, such as legal counsel, accounting, payroll, personnel, supply, and others, are staffed and otherwise supported in part from Federal funds, and in part from trust funds, including funds resulting from overhead recovery on grants and contracts and from administrative fees. This procedure produces a balance of Federal and trust fund administrative support roughly in proportion to the financial nature of the many activities

receiving services, and is reflected in the approved allocation of administrative expenses as audited annually by the Defense Contract Audit Agency.

-- Personnel hiring and employment practices, and the procurement of goods and services, are consistent with sound business management policies and procedures, including the application, where practicable and appropriate for administrative consistency and simplicity, of the guidelines established for the use of Federal funds. Products and concession services offered to the public are priced to be competitive with similar items on the commercial market. As has been customary, trust fund employees are paid at rates commensurate with Federal employees. Funding for employment is determined by the source of funding of the activity with the few exceptions specifically approved in writing by the Secretary.

-- Significant exceptions to the above policies are approved by the Executive Committee of the Board of Regents, and, if necessary, the full Board, and following such approval will be made known to the Office of Management and Budget and the Congress.

All trust fund audits are included in annual financial reports presented to the Congress and the Office of Management and Budget.

Uses of Net Unrestricted Trust Fund Income

Net trust fund income (after meeting the operating costs of the auxiliary activities, sharing the costs of general administration, and sharing certain auxiliary and concession revenue with the bureaus) is used for programs approved in advance by the Board of Regents as part of the regular budget process. Allocations to these purposes will be developed each year on the basis of carefully determined needs and opportunities as well as fund availability and projections of future economic and other conditions that could affect the success of the Magazine, shops, or other auxiliary activities. Programs currently considered include the following:

-- Development of the Smithsonian's relatively small unrestricted endowment fund has been approved by the Regents as their first priority for the allocation of net income in order to strengthen its financial position as a defense against continuing inflation and the unpredictable effects of economic uncertainty. Substantial sums should be added to the endowment each year merely to provide investment income sufficient to offset the annual increases in trust fund expenditures for administrative support caused solely by inflation.

-- Funds are made available for carefully selected projects in the following three programmatic areas: major purchases for the collections

beyond the normal capability of the Federal budget; innovative research, often of an interdisciplinary nature, resulting in publications in environmental and cultural areas of significance; and the extension of popular education, including public television and regional presentations for the National Associates. Such uses are planned in concert with Federal budget planning. They offer significant returns to the public who have supported the Magazine, shops, and other Smithsonian revenue-producing programs. Certain of these programs, such as television productions, are funded with trust funds in order to accommodate the scheduling and time requirements of the program. Other trust fund allotments, usually of small amounts, will be made to the bureaus and offices for special events associated with exhibit openings and similar public presentations, collections management, or other projects where it is determined that there are special needs or opportunities.

-- Physical plant improvement projects are funded where it is determined that the nature of the benefitting activity, type of improvement, or the urgency of the need indicates the use of trust funds. These expenditures are approved in coordination with the budgeting and use of the Institution's Federal plant repair and improvement funds.

Smithsonian Institution Income 1850-1977 (Est.)
(in thousands)

APPENDIX V

YEAR	Total*	Federal S&E	1/ Federal	TRUST FUNDS					Federal Agency Gr. & Contracts
				Unrestrict.	Auxiliary Activities		Restricted		
					Gross Inc.	Expenses			
1850	51	-0-		51	-		-	-0-	
1860	43	4		39	-		-	-0-	
1870	49	4		45	-		-	-0-	
1880	97	55		42	-		-	-0-	
1890	341	285		46	-		10	-0-	
1900	453	392		53	-		8	-0-	
1910	885	779		60	-		46	-0-	
1920	814	692		69	-		53	-0-	
1930	1,813	1,251		80	-		482	-0-	
1940	1,758	1,295		99	-		364	-0-	
1950	3,787	3,190		119	34	34	427	17	
1960	14,415	9,005		364	123	123	766	4,157	
1965	30,686	17,516		400	464	464	1,242	11,064	
1966	35,525	20,974		523	660	660	1,805	11,563	
1967	44,415	24,989		987	781	781	1,726	15,932	
1968	42,377	26,784		468	2,175	2,471	1,428	11,522	
1969	47,430	29,150		790	3,035	3,491	2,929	11,526	
1970	50,835	32,679		854	4,052	5,093	3,457	9,793	
1971	55,990	36,895		1,858	4,706	5,240	3,214	9,317	
1972	66,174	46,301		1,411	6,445	6,586	4,169	7,848	
1973	76,947	53,233		843	8,483	8,313	5,361	9,027	
1974	89,520	60,563		1,987	12,735	10,965	4,267	9,968	
1975	112,602	72,511		2,407	18,802	16,494	6,537	12,345	
1976 & Trans. Qtr.	168,545	106,654		4,112	34,483	29,946	7,788	15,508	
1977 (E)	143,956	85,236		2,780	39,440	32,640	5,300	11,200	

(Not included in total)

* Includes Auxiliary Activities Cost of Sales.

1/ Includes SSIE; Excludes Foreign Currency, R&R, Construction Appropriations.

2/ Prior to 1968 expenses allocable to Auxiliary Activities cannot be readily identified; breakeven is assumed.