

Senate Committee on Rules and Administration

Statement of

**Diana Aviv
Member, Governance Committee
Board of Regents
Smithsonian Institution
President and CEO
Independent Sector**

June 26, 2007

As a non-Regent member of the Governance Committee of the Board of Regents of the Smithsonian Institution, I am pleased to submit this statement on steps the Board recently has taken to strengthen governance at the Smithsonian.

I was invited to join the Governance Committee because of my experience in the nonprofit community, including the field of governance. I am the president and CEO of Independent Sector, a national nonpartisan leadership forum for America's charities, foundations, and corporate giving programs. I also serve as executive director of the Panel on the Nonprofit Sector, an independent panel of 24 nonprofit leaders that has undertaken a comprehensive review of governance and other aspects of charitable sector practice in order to recommend to Congress and to the sector ways to maintain the highest possible standards of ethical conduct. The Panel was convened by Independent Sector in October 2004 at the encouragement of Senator Charles E. Grassley, then Chairman of the Senate Finance Committee, and Senator Max Baucus, then Ranking Member of the Committee.

Senator Grassley and Senator Baucus invited Independent Sector to convene the Panel "to consider and recommend actions that will strengthen good governance, ethical conduct and effective practices" of charitable organizations. The Panel issued three reports: an Interim Report to the Senate Finance Committee in March 2005, a Final Report to Congress and the Nonprofit Sector in June 2005, and a Supplement to the Final Report in April 2006. All are available at www.NonprofitPanel.org. The reports were welcomed by the leadership of the Senate Finance Committee, then-Commissioner of Internal Revenue Mark Everson, and charitable organizations across the country. Many of the Panel's recommendations were included in the Pension Protection Act of August 2006. This legislation is widely considered to represent the most comprehensive reform of the charitable sector since the 1969 Tax Reform Act.

As part of its work, the Panel determined that the nonprofit community would benefit greatly from a shared set of standards for good governance and ethical practice. To address that need, we brought together leaders from the sector to form a special Advisory Committee on Self-Regulation. The Advisory Committee has developed and issued for public comment a set of draft principles for self-regulation that fall into four categories: principles for facilitating legal compliance and public disclosure; principles for good governance; principles for strong financial oversight; and principles for responsible fundraising practices. These principles already have been welcomed by many leaders of major nonprofit organizations and we expect them to be issued in final form at Independent Sector's Annual Conference in October 2007.

As one of the many people within the nonprofit community who is deeply committed to good governance and ethical conduct, I was saddened to learn of the seriousness of the Smithsonian's management and governance problems. The Smithsonian is a national treasure. Its family of museums, galleries, research centers, and a zoo is home to inspirational exhibits and programs, world class research, and a staggering collection of 136 million objects. More than 33 million people enjoy and learn from its vast resources each year. The Board of Regents is responsible for safeguarding these resources by making sure the Institution is governed and managed in a manner that is ethical, accountable, transparent, and consistent with best practices in the nonprofit sector.

During the past three months, the Governance Committee has been involved in an intensive review of Smithsonian governance and management. Meeting at least weekly since March 21, and convening for a daylong retreat, the Committee has reviewed relevant Smithsonian governance documents, has learned from the experience and practices of other nonprofit organizations, and has consulted with experts in the field of nonprofit governance. An important part of the Governance Committee's work has involved comparing the Smithsonian's practices with the Advisory Committee on Self-Regulation's draft principles for good governance and ethical practice.

The Governance Committee found many weaknesses in the Smithsonian's governance and management processes, including the lack of transparency to the stakeholders of the Institution, such as its employees, its Board, Congress, and the American people. To address these weaknesses, the Governance Committee developed 25 recommendations, which were adopted by the Board of Regents on June 18 to strengthen immediately the Institution's governance and management practices.

When the Regents created the Governance Committee, they also established an Independent Review Committee ("IRC") to examine issues relating to an Inspector General review of former Secretary Small's expenses, the Regents' responses to the review, and other concerns raised by Senator Grassley. On June 20, the IRC issued a thorough and sobering report on deficiencies in the Smithsonian's management and governance.

Although many of the IRC's findings related specifically to the former Secretary, this report made clear that the resignation of Mr. Small did not, by itself, remedy the problems it identified. In the words of the IRC, "the Smithsonian must correct the underlying deficiencies in its organizational structure, decision-making and financial controls that allowed inappropriate management conduct to go unchecked." The Governance Committee independently came to virtually the same conclusions, and the 25 recommendations the Board of Regents adopted are directed at correcting these deficiencies.

The Governance Committee's recommendations will position the Smithsonian to become an exemplary organization, but the job is not yet done. The Regents, the Board Committees, and Smithsonian management have much work ahead to carry out these recommendations. In the meantime, I believe that the current leadership of the Smithsonian is fully committed to being worthy of the confidence of Congress and the American people.