Congress of the United States
House of Representatives
Committee on Appropriations
Washington, DC 20515-6015

April 27, 2006

Dear Mr. Secretary

We are writing to express our concern about reports carried in The Washington Post
 describing the recent “Smithsonian on Demand – Showtime Networks” contract. While the exact
terms of the contract have not been released by the Smithsonian to us or to the public, these
newspaper reports, as well as discussion with your staff, indicate that a legally binding
agreement may have been reached with a single commercial firm to grant that vendor near-
exclusive rights to the use of Smithsonian resources in all commercial filmmaking efforts in
which the Smithsonian is a significant contributor. It appears to do so by giving that vendor first
refusal on any commercial film project which makes “more than incidental” use of Smithsonian
resources, either collections or personnel. We believe that such an exclusive arrangement may be
incompatible with the trust placed in the Smithsonian as an educational institution and as an
instrumentality of the United States. Contrary to the stated and intended purpose of the
arrangement to increase the access of the public to Smithsonian collections and personnel, this
agreement appears to be designed to restrict such access to a single commercial firm.

The Subcommittee requests the Board of Regents to immediately review this contract to
determine whether it violates the spirit if not the letter of the Smithsonian Trust and to consider
changes to the contract which would fully guarantee that its terms are limited to a narrow set of
programs and not a bar to other legitimate commercial filmmakers who we believe have the right
to reasonable access to the collections and staff. The Subcommittee requests that this matter be
brought to the attention of the Board of Regents at its May 2006 meeting and that a response be
provided to the Committee regarding these concerns within 90 days.
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The Honorable Lawrence Small
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In addition to our concern about this particular contract, we would be concerned about any future agreements that are negotiated in secret, without Committee consultation, which commercialize Smithsonian resources or which appear to essentially sell access to Smithsonian resources. While the Committee recognizes that budget shortfalls, in particular the need for funds to repair and maintain an aging infrastructure, require the Smithsonian to be aggressive and imaginative in its fund raising, these actions are often controversial and raise the risk of damaging both Congressional and public support for the Institution.

The Committee believes that the Regents should charge the Secretary with organizing a formal public process, including an opportunity for public testimony, to analyze the issues surrounding financial agreements which appear to provide exclusivity or significant limitations on access to Smithsonian collections, which are by definition the property of all of the people of the United States.

We look forward to a response to our concerns at your earliest convenience.

Sincerely,

Norman D. Dicks
Ranking Minority Member
Subcommittee on Interior, Environment, and Related Agencies

Charles Taylor
Chairman
Subcommittee on Interior, Environment, and Related Agencies