



# Smithsonian Institution

Office of the Inspector General

March 29, 2013

The Honorable Henry A. Waxman  
Co-Chair, Bicameral Task Force on Climate Change  
Ranking Member, Committee on Energy and Commerce  
United States House of Representatives  
2204 Rayburn House Office Building  
Washington, DC 20515

The Honorable Sheldon Whitehouse  
Co-Chair, Bicameral Task Force on Climate Change  
Chairman, Subcommittee on Oversight, Committee on Environment and  
Public Works  
United States Senate  
530 Hart Senate Office Building  
Washington, DC 20510

The Honorable Edward J. Markey  
Co-Chair, Bicameral Task Force on Climate Change  
Ranking Member, Committee on Natural Resources  
United States House of Representatives  
2108 Rayburn House Office Building  
Washington, DC 20515

The Honorable Benjamin L. Cardin  
Co-Chair, Bicameral Task Force on Climate Change  
Chairman, Subcommittee on Water and Wildlife, Committee on Environment  
and Public Works  
United States Senate  
509 Hart Senate Office Building  
Washington, DC 20510

Dear Representative Waxman, Senator Whitehouse, Representative Markey,  
and Senator Cardin:

We received your letter, dated February 25, 2013, in which you made a two-part request about the climate change initiatives at the Smithsonian Institution (Smithsonian). In part one, you requested information about the applicability of climate change laws and regulations to the Smithsonian and whether Smithsonian is meeting those standards. In part two, you asked for an assessment of Smithsonian's authorities to reduce emissions and strengthen resiliency. The following is our response to your inquiry.

## **Part 1**

*1. Identify the existing requirements in legislation, regulation, executive order, and other directives that may apply to the Smithsonian.*

The Smithsonian's Office of the General Counsel (OGC) has advised that several statutes, regulations, and executive orders relating to climate change

do not apply to the Smithsonian, but the Smithsonian adheres to their principles as a matter of policy.

For example, regarding the Energy Independence and Security Act (EISA) of 2007, Pub. L. 110-140, which amended the National Energy Conservation Policy Act (NECPA), codified at 42 U.S.C. § 8251 *et seq.*, the Smithsonian determined that EISA and NECPA did not apply to the Smithsonian. This determination was based on its position that the (1) Smithsonian was not an “agency” covered by the Act, and (2) Smithsonian’s buildings are not “federal buildings” as defined by the Act.<sup>1</sup> Nevertheless, the Smithsonian stated its commitment to plan, design, construct, maintain, and operate its buildings and facilities consistent with EISA and NECPA to the maximum extent practical.<sup>2</sup> The Smithsonian made a similar commitment to other federal environmental and energy management requirements, such as the Energy Policy Act of 2005 and the High Performance and Sustainable Buildings Memorandum of Understanding of 2006.

Additionally, while the Smithsonian is a trust instrumentality of the United States, and not an executive branch agency, it has committed to the strategic objectives of Executive Orders 13423 and 13514.

*2. Assess whether the Smithsonian is meeting those requirements.*

According to the Smithsonian’s 2011 Scorecard on Sustainability and Energy Performance, it is on-track towards meeting the following goals: (1) scopes 1, 2, and 3 greenhouse gas emission reductions; (2) use of renewable energy; (3) reduction in potable water intensity; and (4) reduction in fleet petroleum use. It is, however, not on-track towards meeting the goals of reduction in energy intensity and green buildings.

*3. If the Smithsonian is not fully meeting the requirements, make recommendations for improving its performance.*

The Smithsonian has several resource-intensive activities, such as providing and maintaining suitable environments for storing, caring, and preserving 137 million collection items, more than 2,000 live animals, and historic buildings; operating food service, museum shops, theaters, and other services to accommodate 30 million visitors annually; hosting hundreds of special events each year; and conducting scientific research. In light of this difficult challenge, our office will continue to assess the Smithsonian’s performance in the areas of energy efficiency and sustainability and will conduct high-priority audits as needed. In our current audit plan, we are

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<sup>1</sup> NECPA defined “federal building” as “any building, structure, or facility, or part thereof, including the associated energy consuming support systems, which is constructed, renovated, leased, or purchased in whole or in part for use by the Federal Government and which consumes energy.” 42 U.S.C. § 8259(6). The Smithsonian’s buildings and land are generally treated as the property of the Smithsonian, and they are separate and distinct from property of the federal government.

<sup>2</sup> [http://www.ofeo.si.edu/ae\\_center/design-sustainability.html](http://www.ofeo.si.edu/ae_center/design-sustainability.html) (visited on March 27, 2013).

scheduled to assess the effectiveness of the Smithsonian's fleet management and will make recommendations to help the Smithsonian achieves the President's sustainability goals.

## **Part 2**

*1. Assess the authorities the Smithsonian has to reduce emissions of heat-trapping pollution.*

The Smithsonian does not have regulatory authorities to reduce emissions of heat-trapping pollution according to OGC.

*2. Assess the Smithsonian's authorities to make the nation more resilient to the effects of climate change.*

According to OGC, the Smithsonian does not have regulatory authorities to make the nation more resilient to the effect of climate change.

*3. Assess the most effective additional steps the Smithsonian could take to reduce emissions or strengthen resiliency.*

Since the Smithsonian is not a regulatory entity, we have not assessed additional steps that it could take to reduce emissions or strengthen. However, the Smithsonian's mission is "the increase and diffusion of knowledge." Through its museum and research facilities and staff, the Smithsonian is uniquely positioned to study and educate the public about sustainability, including how to reduce emissions and strengthen resiliency. At the time of his installation in 2009, the Smithsonian Secretary stated his intent to make sustainability as one of his top priorities:

Through the long-standing efforts of our scientists, the Smithsonian has been among the leaders in understanding climate change and biodiversity issues. Now we need to take two more steps. The first recognizes that these problems are not simple, and that communicating the complex science behind the dynamic processes is difficult, but necessary. Now is the time for the Smithsonian to extend its reach by communicating the research in such a way so that our political leaders and the public can understand it, so that global action can be mobilized to help our planet become more sustainable. This will position the Smithsonian to increase the impact of the remarkable efforts of our scientists. The second step is to bring our world-wide commitment to sustainability to our doorstep. We will commit to an overarching approach to sustainability for our museums and facilities here on the Mall and wherever in the world the Smithsonian has a footprint or a building.<sup>3</sup>

The Smithsonian has taken many steps in furthering the public's knowledge about sustainability. As one of the four grand challenges in its strategic

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<sup>3</sup> <http://www.si.edu/Content/Pdf/About/Secretary/Clough-Installation-Speech.pdf>.

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plan, the Smithsonian has undertaken to “understanding and sustaining a biodiverse planet.” To achieve this goal, a consortium was established to support projects and programs that combine expertise across scientific unit and biodiversity disciplines to investigate natural processes and their responses to change. Among its activities, the consortium hosted a symposium on the *Limits to Growth* which offered perspectives on challenges to building a sustainable planet.

We encourage the Smithsonian to continue its commitment to sustainability and to take further steps to increase knowledge about these important issues.

Please do not hesitate to call me on 202.633.7050 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott S. Dahl". The signature is fluid and cursive, with a prominent loop at the end.

Scott S. Dahl  
Inspector General