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Public Works for a Better Government

July 4, 2011

A. Sprightly Ryan, Inspector General
Office of the Inspector General
Smithsonian Institution
MRC 524, PO Box 37012
Washington, D.C. 20013-7012

Dear Ms. Ryan:

I am writing in reference to the Terms of Use and Licensing Policies of the Smithsonian Institution, policies which are contrary to the Works of Government clause of the Copyright Act and the Increase and Diffusion of Knowledge clause of the Smithsonian's charter. You may find a detailed statement of our complaint at the following location:

<https://wwlbd.org/>

It is our contention that the Smithsonian Institution knowingly and systematically have used the Terms of Use and Licensing policies to circumvent the requirements of the U.S. Code. The Smithsonian's policies are in marked contrast to those of our other cultural institutions, such as the National Archives and the Library of Congress.

While we applaud the desire to raise revenues in these fiscally troubled times, these actions contravene the policies clearly set out by the United States Congress and violate long-established precedents established by the Supreme Court. In particular, institutions and instrumentalities of the United States may not assert copyright except in very limited circumstances and may not use contractual limitations and scare tactics to get around the Works of Government clause.

This policy of deliberately restricting access by the Smithsonian Institution is a long-standing one and a policy we believe officials have every reason to know is contrary to law. We ask you as Inspector General to institute an investigation to determine the validity of these assertions and to recommend corrective actions as appropriate.

Sincerely yours,

Carl Malamud
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cc: Chairman Dan Lungren
Committee on House Administration