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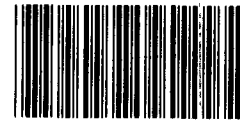
United States General Accounting Office

Report to the Ranking Minority Member,  
Committee on Rules and Administration,  
U.S. Senate

July 1992

# ARTIFACTS ACQUISITION

## Smithsonian Institution and Library of Congress Should Not Compete



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**General Government Division****B-246891****July 6, 1992****The Honorable Ted Stevens  
Ranking Minority Member  
Committee on Rules and Administration  
United States Senate****Dear Senator Stevens:**

**This report responds to your request that we review whether the Smithsonian Institution, the Library of Congress (LOC), the National Park Service (NPS), and the National Archives and Records Administration (NARA) bid competitively against one another to acquire historic artifacts. You were concerned that competitive bidding with taxpayer or public trust funds may result in higher costs to the government than a more concerted purchasing strategy. You asked us to determine if competitive bidding occurs, if the agencies guard against this, and if mechanisms are needed to prevent it.**

**We relied on agency officials to identify competition for artifacts among the four agencies and did not consider competition against nonfederal institutions or private individuals.**

**On June 17, 1992, we briefed the Committee on our findings. The following summarizes the information reported at the briefing.**

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**Results in Brief**

**In the past 5 years LOC and the Smithsonian competed for historic artifacts in at least four instances, with one or the other agency winning in each case. NARA and NPS officials did not identify any examples of competitive bidding by their agencies. The competition occurred where collecting programs overlapped and roles were unclear in the area of jazz music and, in one case, architectural drawings. In three of the four cases, the agency that purchased the artifact paid more than the amount that was being negotiated by the other agency. In the fourth case, the nonacquiring agency was raising funds to offer the same amount as the acquiring agency.**

**Neither LOC nor the Smithsonian has formal policies that guard against interagency competition. The two agencies communicated with each other about the acquisitions in each of the four instances of competition, but only after negotiating independently with the sellers. LOC unsuccessfully attempted to reach a formal agreement on collecting roles with the**

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Smithsonian. To prevent future competition, the Smithsonian and LOC need to adopt policies against such practices and to clarify collecting roles, particularly in the area of music. The agencies should also agree before negotiations begin as to who will take the lead on a particular collection.

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## Background

To a varying extent, NARA, NPS, LOC, and the Smithsonian all collect historic artifacts to fulfill their legislative mandates. Their ability and need to spend appropriated funds to acquire these items also vary.

NARA maintains the official records of the three branches of the federal government. According to agency officials, NARA rarely competes for historic records, because it has a legal right to obtain official government documents from both public and private sources, generally at no cost.

NPS acquires historic items to be displayed at the historic sites under its jurisdiction. When artifacts are not included at the time the site is acquired, NPS frequently acquires them centrally. NPS has an annual budget of about \$300,000 to furnish historic sites.

As the national library of the United States, LOC collects historic documents for research in many areas, such as American and foreign history, music, and law. LOC reserves about \$1 million of its annual appropriation to purchase historical collections.

Of the four agencies, the Smithsonian's mandate is by far the broadest: "an establishment . . . for the increase and diffusion of knowledge . . ." <sup>1</sup> The mission of the National Museum of American History (MAH), which was our focus, is to increase the public's understanding of American history through its collections, research, publications, exhibitions, and public programs, including musical performances. The Smithsonian relies primarily on trust funds from private sources for its acquisitions. For the last 3 fiscal years, on average, 20 percent of its acquisitions expenditures, or about \$1 million per year, were supported by federal funds.

Appendix I includes a more detailed description of the mandates and acquisition authority of the four agencies.

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<sup>1</sup>20 U.S.C. 41.

## Objectives, Scope, and Methodology

Our objectives were to determine if NARA, NPS, the Smithsonian, and LOC have competed against one another for artifacts in recent years, if controls exist to prevent competition among federal agencies, and if not, whether mechanisms are needed to prevent future competition. To answer these questions, we interviewed agency officials and reviewed the agencies' written policies and procedures, internal documents relating to specific acquisitions, and enabling legislation and functions. A detailed explanation of our objectives, scope, and methodology is included in appendix II.

## Competition Between the Smithsonian and LOC

Of the four instances of competition between the Smithsonian and LOC, three were for jazz manuscripts and recordings and the fourth was for architectural drawings. Despite knowledge of each other's general interest in the subject matter, the Smithsonian and LOC did not communicate about the acquisitions until after negotiating and discussing offers with the sellers. This gave sellers the opportunity to consider more than one offer from government agencies. In two cases, communication between the agencies after both had negotiated with the sellers ultimately led to agreements on who would acquire the artifacts. In the other two cases, the Smithsonian and LOC made competing offers. In three of the four cases, the seller received more than the amount offered by the nonacquiring agency. In the fourth case, the nonacquiring agency was raising funds to offer the same amount as the acquiring agency. A chronology of events regarding these four examples is provided in appendix III.

Prior to the first instance of competition, conflict arose between the Smithsonian and LOC over MAH's acquisition of Duke Ellington manuscripts and memorabilia from Ellington's son, Mercer, in September 1987.<sup>2</sup> The prospect of purchasing this major collection led MAH, early in 1986, to consider enhancing its 20th-century American music collection and developing a "National Jazz Collection." MAH considered its major institutional competitors for the Ellington collection to be LOC and the Rutgers University Institute for Jazz Studies. Although MAH officials thought these institutions could adequately house the collection for research purposes, they believed MAH could make more effective educational and scholarly use of it.

After the Smithsonian acquired the Mercer Ellington collection, LOC officials said it was inappropriate for MAH to develop a jazz archive when

<sup>2</sup>As part of the Smithsonian's continuing appropriation for fiscal year 1987, the conference committee recommended \$500,000 for the acquisition and preservation of the Duke Ellington collection. The Smithsonian paid \$300,000 for the collection and used the remainder for preservation, cataloguing, and promotional activities.

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LOC already had archival facilities and collections of jazz manuscripts, including Ellington manuscripts. Beginning in June 1990, LOC initiated correspondence with the Smithsonian to address the overlap in their collecting practices. LOC unsuccessfully tried to reaffirm its role as the primary collector of published materials and manuscripts and the Smithsonian's as the primary collector of "realia."<sup>3</sup>

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### Ruth Ellington Boatright Competition

The first instance of Smithsonian-LOC competition involved the pursuit of a second collection of Duke Ellington manuscripts and memorabilia owned by Ellington's sister, Ruth Ellington Boatright. According to internal MAH correspondence, Smithsonian officials knew LOC might be interested in both the Mercer Ellington and the Ruth Boatright collections but made no effort to coordinate with LOC in negotiating for them. Knowing that the Smithsonian had already acquired the Mercer Ellington collection, LOC staff proceeded to negotiate with Mrs. Boatright without coordinating with the Smithsonian.

In October 1986, Mrs. Boatright contacted MAH about her collection of Ellington materials. In October 1989, LOC learned of the availability of the Boatright collection through a dealer. Each institution, without first coordinating with the other, visited Mrs. Boatright and inspected and appraised her collection with the intention of making an offer for its acquisition.

Although LOC curatorial staff sought a meeting with Mrs. Boatright as early as October 1989 and knew in September 1990 of the Smithsonian's negotiations with Mrs. Boatright, the two agencies did not communicate about the collection until November 1990. In November 1990, the Librarian of Congress, having learned that both agencies were negotiating for the Boatright collection, contacted the Secretary of the Smithsonian to suggest a joint bid by which LOC would obtain the manuscripts and MAH would obtain the realia. Smithsonian officials would not agree to a joint bid because the small amount of realia was of secondary interest to them, and they wished to reunite the manuscripts held by Ellington's sister with the Mercer Ellington collection the Smithsonian had already obtained. Further, Smithsonian officials argued that Congress had specifically designated the Smithsonian to receive the Ellington artifacts.<sup>4</sup>

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<sup>3</sup>Realia are historically significant objects, such as Duke Ellington's piano.

<sup>4</sup>In commenting on a draft of this report, LOC disputed this assertion, citing a statement to the Librarian of Congress in September 1991 by the Chairman of the House Appropriations Subcommittee on the Interior that Congress had made no further commitment to jazz at the Smithsonian beyond funding the first Ellington collection.

After having been told by the Smithsonian that it would not engage in a joint bid, LOC offered \$200,000 from appropriated funds, an amount equivalent to its appraisal, for the manuscript portion of the Boatright collection.<sup>5</sup> The Smithsonian purchased the manuscript portion and some of the realia for \$275,000 from trust funds in July 1991.<sup>6</sup> The Smithsonian's appraised value for its acquisition was \$321,240.<sup>7</sup>

## Valburn Competition

A second instance of competition between the Smithsonian and LOC occurred over a private collection of rare recordings of Ellington's work produced and owned by Jerry Valburn.<sup>8</sup> Smithsonian officials said LOC outbid them for the collection. LOC officials said that Mr. Valburn chose to sell to LOC because his family had a long relationship with LOC and he felt it was the best place for the collection.

In March 1990, MAH officials met with Mr. Valburn to inspect his collection. Mr. Valburn indicated he would require compensation for it but would consider making a partial donation. LOC first learned of the availability of the Valburn collection in May 1991. At that time, LOC officials said they thought that Mr. Valburn had held discussions in 1989 with the Smithsonian about acquiring his collection but did not know if these talks had continued. According to an MAH official, in June 1991, MAH and Mr. Valburn informally agreed on a price of \$200,000 for the collection (as part of a gift and purchase arrangement), to be raised from private sources.<sup>9</sup> However, in September 1991, Mr. Valburn offered the collection to LOC as a combined gift and purchase for \$250,000, and LOC purchased it.<sup>10</sup>

## Mingus Competition

In the third instance, both the Smithsonian and LOC were interested in acquiring the manuscript collection of the late jazz musician Charles Mingus. Hoping to obtain a high valuation for tax purposes, Mr. Mingus'

<sup>5</sup>LOC made an official offer in a letter to Mrs. Boatright, unaware that the Smithsonian had already signed a purchase agreement for Mrs. Boatright's collection 1 week earlier.

<sup>6</sup>The Smithsonian used funding from the Institution-wide Major Acquisitions Fund, which is supported by income from the Smithsonian endowment, donations, and revenues from business operations.

<sup>7</sup>The appraised value of the entire collection was \$324,840. MAH did not wish to acquire some of Ellington's personal belongings valued at \$3,600.

<sup>8</sup>Mr. Valburn was a close associate of Duke Ellington over the course of his career.

<sup>9</sup>Mr. Valburn has since disputed that he ever agreed, informally or otherwise, to a sale of his collection to the Smithsonian for less than his asking price of \$250,000. The MAH official told us he is certain that they had informally agreed to the \$200,000 price.

<sup>10</sup>The gift portion of the collection was appraised at \$300,000.

widow showed the collection to some foreign entities, in addition to LOC and the Smithsonian. In the fall of 1991, LOC offered to acquire the collection for its appraised value of \$545,500, to be paid over a number of years. Mrs. Mingus' representative later claimed that the Smithsonian had offered \$675,000 for the collection and asked LOC to match that offer. When LOC officials learned this, they called the Smithsonian to discuss who should bid for the collection. According to MAH officials, the Smithsonian was in the process of raising private funds to purchase the collection for up to the appraised value of \$545,500 when it learned of LOC's bid in late 1991. At that time, the Smithsonian agreed to withdraw from negotiations because it did not wish to compete with LOC for the collection. LOC officials said they had agreed to acquire the collection for the appraised value. Because the collection would be acquired over 4 years, the acquisition price increased to \$626,560 to account for the rising market value of the collection.

## Renwick Competition

The fourth instance of competition occurred when both LOC and the Smithsonian were approached by the owner of the Renwick family's architectural material.<sup>11</sup> In their negotiations with the owner, both the Smithsonian and LOC were told that the other institution had been approached but that its offer had been rejected as inadequate. LOC had proposed a gift and purchase arrangement of between \$25,000 and \$40,000 for the entire collection. The Smithsonian was only interested in a small portion of the collection relating to the Smithsonian "Castle" building, but the owner had insisted on keeping the collection together. Smithsonian officials said they were told by the owner that LOC's offer was unacceptable. Therefore, a Smithsonian official asked the owner to indicate an acceptable amount for the entire collection. In June 1991, the owner asked the Smithsonian for \$135,000 for the entire collection. When LOC officials learned of this, they conferred with the Smithsonian for the first time. The two agencies agreed to split the collection, with the Smithsonian acquiring the Castle drawings and LOC purchasing the remainder. The total cost was \$135,000.

The Smithsonian and LOC offers and final purchase prices paid for the four collections are summarized in table 1.

<sup>11</sup>The archives of the architects James Renwick and William Whetton Renwick contain numerous American architectural drawings including original designs for a number of Washington, D.C., projects, such as the Smithsonian, the old Corcoran Museum, and the proposed National Museum of History and Art, which was never built.



**Table 1: Offers and Purchase Prices of Four Collections**

	Collection			
	Ruth Ellington Boatright	Valburn	Mingus	Renwick
<b>LOC offer</b>				
Date	7/91	9/91	9/91	2/91
Amount	\$200,000	\$250,000	\$545,500	<sup>a</sup>
<b>Smithsonian offer</b>				
Date	7/91	6/91	<sup>b</sup>	<sup>c</sup>
Amount	\$275,000	\$200,000	<sup>b</sup>	<sup>c</sup>
Purchased by	Smithsonian	LOC	LOC <sup>d</sup>	Split <sup>e</sup>
Price paid	\$275,000 <sup>f</sup>	\$250,000	\$626,560 <sup>d</sup>	\$135,000 <sup>f</sup>

<sup>a</sup>The offer ranged from \$25,000 to \$40,000.

<sup>b</sup>The Smithsonian withdrew from negotiations before making an official offer. It had been considering raising private funds to make an offer up to the appraised value of \$545,500.

<sup>c</sup>After the seller rejected Smithsonian offers to buy a portion of the collection and to arrange a gift/purchase, the Smithsonian asked the seller to indicate how much she wanted for the whole collection. The seller requested \$135,000, the amount of her appraisal. The Smithsonian was considering this amount when LOC and the Smithsonian agreed to split the collection.

<sup>d</sup>LOC will initially acquire the collection as a deposit and pay for it in four annual installments. The higher total purchase price reflects the estimated increased market value of the collection over the 4 years it will be on deposit at LOC.

<sup>e</sup>The Smithsonian received the drawings of the Smithsonian Castle building and LOC received the rest of the collection.

<sup>f</sup>The Smithsonian used private funds to purchase this collection.

## Smithsonian and LOC Lack Agreements, Clear Roles, and Policies on Noncompetition

The Smithsonian and LOC do not have policies prohibiting competition with other federal agencies for historic collections. Particularly in the area of music, the Smithsonian and LOC have overlapping roles and have not been able to reach agreement on what both agencies will and will not collect. The Librarian of Congress initiated negotiations with the Secretary of the Smithsonian in June 1990 to improve coordination and to clarify collecting roles. While these negotiations continued through September 1991, the Secretary and the Librarian have not reached agreement. Smithsonian and LOC officials have delayed developing formal agreements and coordination mechanisms and instead have focused on informal communication. They plan to improve communication and coordination between the Smithsonian and LOC curatorial staff.<sup>12</sup>

<sup>12</sup>Curators are subject area specialists who identify and pursue collections in their fields, such as music or film.

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The Smithsonian has an internal policy of noncompetition among its own collecting organizations: "Competition in the market place among Smithsonian museums and collecting organizations is to be avoided . . . . When more than one museum or collecting organization seeks to acquire the same collection, the directors concerned must agree who will acquire the collection."<sup>13</sup> However, the Smithsonian has no corresponding policy to avoid competition with other federal collecting organizations.

LOC's general acquisition policy statement does not specifically address either internal or external competition. However, LOC has attempted to clarify collecting roles where it perceived conflicts with the Smithsonian and NARA. LOC succeeded in establishing a working group with NARA to address mutual concerns and conflicts over motion pictures and manuscripts. Rather than write a formal policy statement about who would collect what, the working group decided that conflicts in overlapping areas could be worked out at the curatorial level, since these professionals frequently contact one another about issues in their subject areas. An LOC official said this approach has worked well to date with NARA.

As mentioned, LOC has not been successful in establishing a working group with the Smithsonian. Since June 1990, the Librarian of Congress and the Secretary of the Smithsonian have tried to agree on their respective collecting activities; however, no agreement has yet been reached. During the negotiations, the Librarian focused on reaffirming LOC's primary responsibility for collecting printed materials and the Smithsonian's responsibility for collecting realia. The Smithsonian agreed with this generally but did not want specific language that would prevent it from collecting printed materials when justified to support its collections. Two draft memorandums of understanding were developed: one pertaining to general acquisition policies and the other to Ellington materials. Neither the Smithsonian nor LOC signed these memorandums. Although informal discussions between the agencies have continued on the staff level, there has been no further discussion about formal coordination measures. LOC officials said they still wish to develop a formal agreement with the Smithsonian on who will collect what kinds of artifacts and on a coordination mechanism for disputed acquisitions.

Smithsonian and LOC officials have acknowledged the absence of formal coordination mechanisms and have stressed the value of informal contacts

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<sup>13</sup>Smithsonian Institution Office Memorandum No. 808 (Rev.) to Heads of Organization Units, on "Collections Management Policy," January 24, 1990.

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and communication. According to Smithsonian and LOC officials, subject matter specialists at each institution frequently contact one another to share expertise, arrange for loans of material, or collaborate on an exhibition or a musical production. For example, LOC has served as a resource for the music experts at MAH. However, Smithsonian and LOC officials could not explain why informal communication did not prevent competing negotiations in the four instances.

MAH and LOC officials said that, as a result of the three competitive situations involving jazz music, they plan (1) to conduct site visits to improve awareness of one another's music collections and facilities, (2) to discuss prospective music collections of mutual interest, (3) to exchange copies of materials where useful, and (4) to reach an understanding in which MAH and LOC would copublish from their collections. These plans have not yet been implemented.

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## No Evidence of Competition at NPS or NARA

NPS and NARA said they have not competed with each other or with the Smithsonian or LOC in the past 5 years. We believe the potential for competitive bidding by these agencies is minimal due to their more clearly defined mandates and limited financial resources. NARA has cooperated in forming working groups with both LOC and NPS to address matters of mutual concern regarding their collections.

NPS requires that each historic site have detailed collection plans that provide specific criteria for what will be acquired. Budgets are developed in connection with these plans, and funding for acquisitions is limited. NPS officials acknowledged that a potential for rivalry exists for the occasional "opportunity purchase," but that their experience to date with the other agencies has been cooperative rather than competitive.

In general, because the historical profession regards historic sites as the best exhibition location for artifacts emanating from them, NPS officials said they would be unlikely to face competition from other historically oriented institutions for such artifacts. They cited an example in which the Gettysburg National Military Park, the U.S. Army Museum, and the West Point Museum worked out a preferred order for bidding on a Civil War flag. Because the historic significance of the flag is linked to the Gettysburg Park, the institutions agreed that Gettysburg should be the preferred collector, with the U.S. Army second and West Point third. Since Gettysburg did not have the funds, the Army museum acquired the flags and subsequently agreed to display them at Gettysburg.

Further, NARA's specific legislative mandate limits the potential for competitive bidding. Because NARA has the legal mandate to receive and maintain official federal agency documents, there is no need to purchase them.<sup>14</sup> According to NARA officials, if they learned about a significant, historic federal document that they thought had been illegally removed from a federal agency, they would ask the owner to donate it to NARA. If the owner refused, NARA said it could try to retrieve it through litigation. Agency officials could recall only two significant open market bids for historic materials. They succeeded in one bid, paying less than \$3,000 from gift funds.

In 1988, NARA joined LOC and NPS in forming separate working groups. Both the NARA-NPS and NARA-LOC working groups were established as forums for addressing problems and issues of mutual concern. The NARA-LOC group was specifically concerned with acquisition policy issues.

## Historical Institutions' Cooperative Collecting Recommendations

In 1987, the American Association for State and Local History and the Smithsonian Institution sponsored a conference entitled "A Common Agenda for History Museums." The purpose of the conference was to explore better collaboration among history museums in order to address common needs. Among the major recommendations from the conference were that museums should develop (1) policy statements on what they will and will not collect, (2) collection criteria statements and plans, (3) collection databases for sharing purposes, and (4) agreements as to who will collect what.

All four agencies we reviewed have some form of stated collection policy and criteria and are in the process of developing databases for sharing purposes. The four agencies generally do not have agreements with each other about who will collect what. One exception is a 1975 agreement between LOC and NARA on audiovisual materials. In this area, the two agencies have agreed that NARA will generally acquire material generated by the federal government and news footage and LOC will focus on privately produced materials. LOC and the Smithsonian have not been able to reach agreement as to who will collect what artifacts in the area of jazz music, and this issue continues to be actively disputed.

<sup>14</sup>The major exception to this general rule is presidential papers from administrations prior to 1981. Beginning in 1981, presidential records are to be considered government property and preserved accordingly. Before 1981, presidential papers are considered private property.

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## Conclusions

In recent years, LOC and the Smithsonian competed for historic collections in at least four instances. The competition occurred in areas where collecting programs overlapped and roles were unclear: the area of jazz music and, in one case, architectural drawings. In two of the four instances, communication between the Smithsonian and LOC, after both agencies had negotiated with the sellers, led to agreements about which agency would acquire the collections. In the other two, the Smithsonian and LOC made competing offers. By negotiating in isolation, the Smithsonian and LOC could not ensure that they would minimize cost to the federal government. In three of the four cases, the government ultimately paid the highest of the prices being negotiated. In the fourth case, both institutions were negotiating the same price.

The Smithsonian and LOC do not have formal policies to prevent competing with other agencies, although the Smithsonian has a policy regarding internal competition among its collecting organizations. Informal cooperative relationships exist between the curatorial staffs of both agencies, but these relationships did not ensure against competition with the other agency when contested material was involved. The historical profession has recognized the benefits of collaboration when developing collections. However, these professionals have stressed the need for formal agreements in addition to informal relationships.

NPS and NARA officials denied competing for artifacts with the other federal agencies. We attribute this to their more clearly defined mandates and limited financial resources. These organizations and LOC have succeeded in developing cooperative approaches to settling conflicts, such as agreeing on who should make an offer, and in establishing joint working groups to address matters of mutual concern.

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## Recommendations

To help prevent interagency competition in future artifact acquisitions, we recommend that the Secretary of the Smithsonian Institution and the Librarian of Congress

- clarify their institutions' collecting roles to prevent duplicated effort,
- formulate acquisition policies to discourage competition against other agencies,
- reach agreement and establish more specific guidelines as to which agency will take the lead in acquiring artifacts for areas that overlap, and
- instruct their staffs to inform agency counterparts when potentially overlapping collections become available.

In this regard, the Secretary and the Librarian may want to establish a mechanism in which joint ad hoc committees composed of cognizant officials from both agencies would be formed to determine which institution should negotiate for disputed artifacts.

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## Agency Comments

We discussed a draft of this report with the four agencies in May and June 1992. They generally agreed with our facts, conclusions, and recommendations.

LOC disputed the assertion that they outbid the Smithsonian for the Valburn collection, since Mr. Valburn has stated that he does not recall agreeing to a lower offer from the Smithsonian. We questioned a Smithsonian official about this and were told that he was certain that Mr. Valburn had informally agreed to a lower offer. LOC officials also said the report did not adequately recognize the leadership role of the Librarian in initiating a clarification of collection roles with the Smithsonian. We revised the report, where appropriate, to make this recognition.

Smithsonian and LOC officials both said they want to cooperate to resolve disagreements about their collecting roles. They agreed to take action and develop policies to avoid competition in the future.

Other minor comments from the four agencies have been incorporated into the briefing report where appropriate.

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As arranged with the Committee, we plan no further distribution of the report until 30 days from the date of this letter unless you publicly announce its contents earlier. At that time, we will send copies to the Secretaries of the Smithsonian and the Department of the Interior, the Librarian of Congress, the Archivist of the United States, cognizant congressional committees, the Director of the Office of Management and Budget, and other interested parties. We will also make copies available to others upon request.

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Major contributors to this report are listed in appendix IV. If you have any questions, please call me at (202) 275-8676.

Sincerely yours,

A handwritten signature in black ink that reads "L. Nye Stevens". The signature is written in a cursive style with a large initial "L" and a long horizontal stroke at the end.

L. Nye Stevens  
Director, Government Business  
Operations Issues

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## Abbreviations

LOC	Library of Congress
MAH	Museum of American History
NARA	National Archives and Records Administration
NPS	National Park Service





# Broad Agency Missions and Acquisition Authority

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The following is a description of the four agencies' mandates to collect historic artifacts and their authority and funding to do so.

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## National Archives and Records Administration

The National Archives and Records Administration (NARA) is responsible for maintaining the historically valuable records of the three branches of government, from the Revolutionary War to the recent past.

Agency officials said there are three ways NARA obtains historic documents: (1) the majority are obtained through transfers from government agencies; (2) some are donated by private sources; and (3) less frequently, some items will become available on the open market. Because NARA believes it has a legal claim to such items, owners are encouraged to donate the materials to NARA. As a last resort, NARA will litigate to obtain an item if it is a very important historic document.

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## National Park Service

The National Park Service (NPS) administers national parks, monuments, historic sites, and recreation areas for the American public. NPS acquires artifacts to interpret the historical significance of the sites under its jurisdiction. Acquisitions are governed according to a "scope of collection statement" developed for each site. According to the guidelines for developing the statement, it should define the museum's purpose and set limits that specify the subject matter, geographical location, and time period to which the collection must relate. The statement is intended to ensure that museum property is clearly relevant to the site. NPS historic sites are required to cite the legal authorities that support the scope of collection statement.

Agency officials said that most historic items are either donated or are included with the site when it is acquired. Individual sites may purchase items that fit in their scope of collection plans, but most purchased acquisitions of historic objects for historic furnished structures and exhibits are made centrally by the NPS Harpers Ferry Center. The Harpers Ferry Center's Historic Furnishings Division budget is \$500,000 annually, of which about two-thirds is available for acquisitions for furnished historic structures. Because the collection scope for a given site is known and a budget is established several years in advance of opening a furnished historic structure or an exhibit, individual sites rarely have the funds to acquire items that suddenly become available on the open market. Harpers Ferry Center officials said they might purchase such an item on the open market once every 2 to 3 years.

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## Library of Congress

Although originally established to serve as a research resource for Congress, the Library of Congress (LOC) has evolved to become the national library of the United States. In this capacity, LOC collects materials in all languages and subjects (excluding clinical medicine and technical agriculture) and in numerous archival formats, including books, periodicals, manuscripts, sound recordings, motion pictures, music, prints, photographs, and maps. LOC has based its acquisitions policies on three guiding principles: (1) possession of books and materials necessary to Congress and federal agencies to perform their duties; (2) possession of books and materials that record the life and achievement of the American people; and (3) possession of written records of other societies, past and present, whose experience is of most immediate concern to Americans. LOC has confined itself to acquiring items of national, as opposed to purely local, interest.

The total fiscal year 1991 appropriation for purchases of new materials was \$7.6 million, of which approximately \$1 million was reserved for rare, historic books or manuscripts. LOC receives about \$500,000 each year in private donations, although these funds are generally earmarked for specific purchases.

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## Smithsonian and National Museum of American History

According to James Smithson, the Smithsonian's founder, the Smithsonian Institution was to be "an establishment for the increase and diffusion of knowledge among men."<sup>15</sup> The National Museum of American History (MAH) preserves and interprets the national heritage for scholarly and general audiences through its collections, research, publications, exhibitions, and public programs, including musical performances.

In fiscal year 1991, for the Smithsonian as a whole, \$1.1 million, or 16.4 percent of the \$6.4 million spent on acquisitions, were federal funds. For fiscal year 1989 through fiscal year 1991, the average federal share of acquisitions funds was 20.0 percent, and the average annual federal expenditure was \$1.2 million. For the same period, average annual acquisition costs for MAH were \$351,498, of which an average of \$41,756 was federal funds.

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<sup>15</sup>20 U.S.C. 41.

# Objectives, Scope, and Methodology

Our objectives were to review whether the Smithsonian Institution, LOC, NPS, and NARA compete against one another in the private market for historic artifacts, what controls are in place to prevent competition between them, and if competition occurred, whether mechanisms should be developed to prevent competitive bidding.

To investigate these questions, we interviewed the following officials at the four agencies: the Senior Advisor to the Secretary of the Smithsonian, the Director of the Museum of American History and other MAH officials, the Chief of Curatorial Services and members of the Harpers Ferry Center staff at NPS, the Associate Librarian for Collections Services and the Chief of the Music Division at LOC, and the Assistant Archivist for Management and Administration, the Assistant Archivist for the Office of National Archives, and the Director of Policy and Programs Analysis at NARA.

To determine whether agencies could compete for artifacts, we reviewed their legislative mandates and appropriations for limitations. We also studied internal controls, including collection policy statements from the Smithsonian, MAH, and LOC; the scope of collection guidelines from NPS; and the accessioning policy memorandum from NARA.

Because our objective was to determine if competition has occurred in recent years, we did not attempt to find all past cases. Instead, we asked officials at the four agencies for examples of instances in which competition took place.

We investigated specific examples of competition by reviewing internal and external correspondence generated by officials at the Smithsonian, MAH, LOC, and other nongovernment parties, such as appraisers and collection owners.

For guidance on professional standards for historical collecting, we reviewed the written proceedings of the conference entitled "A Common Agenda for History Museums," sponsored in 1987 by the American Association for State and Local History and the Smithsonian. The proceedings provided summaries of the recommendations of the four working groups on interpretation, collections, common databases, and collaboration as well as the text of working papers dealing with those subjects.

We did our work from February to June 1992 in accordance with generally accepted government auditing standards.

# Chronology of Events for Four Competitive Acquisitions

The following is a chronology of the Smithsonian Institution's and LOC's pursuit of four collections.

## Boatright Collection

October 28, 1986—Ruth Ellington Boatright contacts MAH to reveal the availability of her collection of Duke Ellington manuscripts and memorabilia.

March 17, 1988—At the request of the Smithsonian, J. & J. Lubrano appraises Mrs. Boatright's collection at \$234,850.

July 18, 1988—At her request, Charles Hamilton appraises Mrs. Boatright's collection at \$337,000.

September 1988—MAH informs Mrs. Boatright that it cannot pay full market value for her collection and offers \$100,000, which she rejects. MAH has learned that Mrs. Boatright is also holding discussions with Sotheby's.

October 1989—LOC learns from Charles Hamilton of the availability of Mrs. Boatright's collection. According to Charles Hamilton's appraisal, the Ellington work notes, manuscripts, and posters account for \$247,800 of the total \$337,000 appraisal. This excludes Ellington's Steinway pianos, furniture, paintings, and clothing.

February 1990—LOC asks Mrs. Boatright to lend or donate her Duke Ellington collection to LOC. LOC would preserve the collection, and Mrs. Boatright would retain control of it.

May 1990—MAH has learned that Christie's and Sotheby's have appraised the Boatright collection and are interested in selling it. MAH offers Mrs. Boatright \$200,000 for the collection as part of a gift/purchase arrangement. The offer is neither accepted nor rejected.

June 1990—The Librarian of Congress writes to the Secretary of the Smithsonian about costly competition and duplication in their general collecting activities, citing MAH's acquisition of the Duke Ellington manuscripts as an example. The Librarian proposes an acquisitions policy working group composed of MAH and LOC staff.

July 1990—Smithsonian officials meet with Mrs. Boatright and prepare an inventory of the collection. Smithsonian officials indicate to Mrs. Boatright

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that they would want the opportunity to meet other offers for the collection.

August 1990—The Secretary indicates to the Librarian that he does not agree with the Librarian's view on sharply defined collecting jurisdictions. The Secretary sees their collections as complementary and mutually supportive and argues that they must agree on this before proceeding with a working group.

September 13, 1990—Charles Hamilton writes to inform an LOC official that the Smithsonian is progressing rapidly in its negotiations for the purchase of Mrs. Boatright's collection.

November 19, 1990—LOC learns that the Smithsonian is still negotiating with Mrs. Boatright. Mrs. Boatright indicates to an LOC official that she will consider any offer at Hamilton's appraised value. LOC is concerned that Mrs. Boatright will inform other parties of its bid in order to generate a bidding competition.

November 28, 1990—The Librarian reveals to the Secretary that he is aware of a competition between LOC and the Smithsonian for Mrs. Boatright's collection. The Librarian suggests a joint bid in which LOC purchases the manuscripts and the Smithsonian purchases the realia.

December 7, 1990—The Secretary indicates to the Librarian that Congress has given MAH authority to collect Ellingtonia. He believes Mrs. Boatright's accountant persuaded her to create competition between the Smithsonian and LOC. The Secretary also states that LOC initiated the competition by pursuing the collection without first contacting the Smithsonian.

January to March 1991—The Librarian and the Secretary continue to correspond about their collection policies. The Librarian argues for a stricter definition of collecting realms, and the Secretary suggests a more pragmatic approach that focuses on reaching agreements about potential future conflicts.

April 1, 1991—J. & J. Lubrano updates its appraisal of Mrs. Boatright's collection for the Smithsonian. Accounting for inflation and some additional materials, the revised appraisal is \$324,840.

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May 13, 1991—LOC receives an appraisal of Mrs. Boatright's collection from Marianne Wurlitzer ranging from \$175,000 to \$200,000, or \$225,000 taking into account a rising market.

May 21, 1991—MAH requests \$290,000 from the Smithsonian-wide Major Acquisitions Fund to purchase Mrs. Boatright's collection.

May 31, 1991—LOC informs the Smithsonian that it is ready to bid for the archival part of the collection, reaffirms its desire to make a joint bid, and asks for a response by June 10, 1991.

June 1991—The Librarian and the Secretary correspond regarding the development of a memorandum of understanding about their respective collecting roles. The Librarian suggests one memorandum for general collecting roles and another to address the Duke Ellington collection. This agreement was never signed.

July 10 to 19, 1991—LOC contacts the Smithsonian four times to get the Smithsonian's response to the proposed joint bid. A Smithsonian official responds that each institution should make its own offer.

July 12, 1991—The Smithsonian signs a purchase agreement with Mrs. Boatright offering her \$275,000 for her collection.

July 19, 1991—Unaware of the Smithsonian's earlier purchase, LOC offers Mrs. Boatright \$200,000 for her collection.

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## **Valburn Collection**

March 1990—An MAH official reports on a recent visit with Jerry Valburn to inspect his collection of Duke Ellington recordings, films, and videos and to discuss the Smithsonian's acquisition of the material. He reports that Mr. Valburn would like to have his collection preserved at the Smithsonian with its Duke Ellington collection. Mr. Valburn wants to be compensated for the collection and said he would probably accept a combined sale and donation.

May 9, 1991—An LOC official reports that LOC is reviewing options to establish itself as a noteworthy repository for American Jazz. He indicates that Jerry Valburn, a collector and independent record producer, has been considering disposing of some or all of his collection of Duke Ellington and other jazz recordings. In 1989, Mr. Valburn said that he had preliminarily discussed the acquisition of his recordings with the

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Smithsonian. The LOC official did not know if further arrangements had been made.

May 1991—An MAH official meets with Mr. Valburn to discuss price and other terms for the purchase of the collection.

June 1991—According to an MAH official, Mr. Valburn meets with MAH, informally agrees to a price of \$200,000 for the collection, and informally agrees to give the Smithsonian the right of first refusal.

Early September 1991—The Valburns notify the Smithsonian that they received a higher offer for their collection and were going to accept it.

September 3, 1991—An LOC official recommends the purchase of the Valburn collection. The collection had been informally appraised at \$500,000 to \$600,000. Mr. Valburn offered one-half of his collection for \$250,000 and the rest as a donation.

September 6, 1991—Representative John Conyers writes to LOC that (1) he has been informed of LOC's attempt to outbid the Smithsonian for a collection of Ellington recordings, (2) Congress intended that the Smithsonian be the primary repository of Ellington materials, and (3) LOC should reconsider plans to acquire the collection.

September 20, 1991—The Librarian responds to Mr. Conyers, asserting that LOC was interested in the Valburn collection to augment its own collection of Ellington recordings and manuscripts and other jazz holdings. The Librarian also says that Mr. Valburn chose to sell his collection to LOC for half the appraised value because his family had a long relationship with LOC and he felt it was the best place for the collection.

September 1991—LOC purchases Valburn collection for \$250,000.

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## **Charles Mingus Collection**

July 28, 1989—An LOC official writes to Mrs. Sue Mingus to ask her to consider placing the manuscripts of Charles Mingus, her late husband, at LOC for their permanent care.

January 18, 1990—An LOC official writes to Mrs. Mingus explaining that LOC cannot indicate what it will pay for a collection until the owner has established an initial price.



December 3, 1990—J. & J. Lubrano informs Mrs. Mingus that they have appraised the Mingus collection at \$545,500.

January 15, 1991—Mrs. Mingus informs LOC of the appraised value of the Mingus collection and asks LOC if they are interested in purchasing it. Mrs. Mingus also tells the Smithsonian of her willingness to sell the collection.

February 6, 1991—An LOC official reports that Mrs. Mingus is seeking to place her Mingus collection with an institution that will preserve it, make it available for research, and pay a reasonable price for it.

September 11, 1991—Mrs. Mingus tells LOC she is not inclined to place the Mingus collection at the Smithsonian because (1) they requested a donation and (2) an earlier archival recording project of Mingus' work initiated by the Smithsonian had not been completed.

September 1991—According to an LOC official, LOC makes a verbal agreement to acquire the Mingus collection in four annual installments for \$626,560, which is based on the appraised value of \$545,500 plus increases to the market value over the 4 years the collection will be on deposit at LOC. A contract is submitted to Mrs. Mingus for her signature.

December 27, 1991—Mrs. Mingus's accountant asks LOC to increase its offer from \$545,500 to \$675,000, which he says has been offered by the Smithsonian. The advisor indicates he has a letter from the appraiser, J. & J. Lubrano, that says the collection may be worth as much as \$750,000. An LOC official recommends that LOC should hold to its initial offer and try to find out if the Smithsonian actually offered \$675,000.

Late 1991—While attempting to raise private funds to offer an amount up to the appraised value, the Smithsonian learns of LOC's offer and withdraws from the negotiations. According to Smithsonian officials, the Smithsonian never made a formal offer for the Mingus collection.

May 21, 1992—Mrs. Mingus signs the contract for the sale of her collection to LOC for \$626,560.

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## Renwick Collection

January 1991—LOC begins negotiating with Mrs. Jean Hewitt for the Renwick architectural material. Mrs. Hewitt informs LOC that the Smithsonian only wanted the drawings of the "Castle" building, but could not pay for them. Mrs. Hewitt did not want to split the collection. LOC

official did not attempt to confirm this information with the Smithsonian. LOC proposes a combined gift and purchase of between \$25,000 and \$40,000.

February 14, 1991—A Smithsonian Archives official writes to Mrs. Hewitt to express interest in exploring a gift and purchase arrangement in acquiring the collection.

February to May 1991—An LOC official maintains contact with Mrs. Hewitt and her advisors. They indicate they are pleased with the negotiations and are relatively certain the collection will go to LOC.

May 20, 1991—Mrs. Hewitt informs an LOC official of the Smithsonian's continued interest in the castle drawings. She asks how he would feel about splitting the collection. Because she has been insisting all along that she did not want to split the collection, the LOC official answers that it would be wrong to do this.

May 28, 1991—A Smithsonian Archives official visits Mrs. Hewitt and again suggests a gift and purchase arrangement, which is rejected. When he asks if LOC is still involved, Mrs. Hewitt responds that LOC would not be interested in acquiring the collection except as a gift/purchase. Mrs. Hewitt refuses to consider splitting the collection and selling only the Castle drawings to the Smithsonian. The Smithsonian asks Mrs. Hewitt to suggest an offer she would accept for the entire collection.

June 14, 1991—Mrs. Hewitt writes to the Smithsonian requesting \$135,000 for the Renwick collection.

June 19, 1991—An LOC official reports that Mrs. Hewitt said the Smithsonian has agreed to pay the full appraised value, \$135,000, for the Renwick collection. LOC had been negotiating for a gift/purchase of between \$25,000 and \$40,000.

June 24, 1991—LOC official reports that he has contacted Smithsonian officials responsible for the Renwick acquisition and they have agreed to split the collection, with the Smithsonian purchasing the Castle drawings and LOC purchasing the remainder. The Smithsonian agreed to make copies of the Castle drawings for LOC.

July 18, 1991—LOC contacts Mrs. Hewitt to confirm the purchase of its portion of the Renwick archive.

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**August 5, 1991**—The Smithsonian writes to inform Mrs. Hewitt that it has approved the purchase of the drawings.

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