MICHAEL P. WALLS
VICE PRESIDENT
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May 12, 2014

The Honorable Howard Shelanski
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Submitted electronically to Regulations.gov docket # OMB-2014-0001-0001

Re: Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities, Docket No. OMB-2014-0001-0001

Dear Mr. Shelanski:

On behalf of the American Chemistry Council (ACC)[1], we thank the Office of Management and Budget (OMB) for the opportunity to respond to OMB's Notice of Availability and Request for Comments on proposed revisions to Circular A-119, Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities. ACC previously submitted comments to OMB in response to its Request for Information published in the Federal Register on Friday, March 30, 2012.[2]

ACC represents the country's leading producers of chemicals and plastics, the raw materials used to manufacture the vast range of products that make modern life possible. Consequently, our organization and membership are touched by voluntary consensus standard development in a host of ways, from material specifications to safety standards. For example, ACC serves as the Secretariat for ANSI Z400.1/Z129.1-2010, the standard for Hazard Evaluation and Safety Data Sheet and Precautionary Labeling Preparation.

We appreciate that OMB conducted a careful and thorough review of the comments received by OMB in response to its March 2012 Request for Information. We supported OMB's reopening of the Circular and addition of supplemental information to improve it, and we believe OMB has made a number of proposals that will update and significantly improve the Circular in many respects. Our comments here are intended

[1] The American Chemistry Council (ACC) represents the leading companies engaged in the business of chemistry. ACC members apply the science of chemistry to make innovative products and services that make people's lives better, healthier and safer. ACC is committed to improved environmental, health and safety performance through Responsible Care®, common sense advocacy designed to address major public policy issues, and health and environmental research and product testing. The business of chemistry is a $720 billion enterprise and a key element of the nation's economy.

[2] Available at http://www.regulations.gov/#!documentDetail;D=OMB-2012-0003-0071

as a refinement of our previously filed 2012 comments and to raise several additional issues for OMB's consideration. Our comments:

- Recommend that the Circular clarify that agency statutory authority should not be circumvented by agency participation in the private standard development process.
- Support OMB's proposal that federal agencies expressly prefer use of voluntary consensus standards over non-consensus standards.
- Suggest that consensus attribute definitions be more closely aligned with ANSI/ISO definitions.
- Support greater reporting and transparency of agency participation in private sector standard development activities.

Our specific comments are attached. Please feel free to contact me, or Karyn Schmidt, Assistant General Counsel, karyn_schmidt@americanchemistry.com, with any questions regarding ACC's comments.

Very truly yours,

Michael P. Walls
Vice President
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Copy: Debra Phillips, Vice President, Responsible Care® and Value Chain Outreach, ACC
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Comments of the American Chemistry Council
Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities

May 12, 2014

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ACC thanks the Office of Management and Budget (OMB) for the opportunity to comment on the proposal. Our comments largely address proposed changes to the Circular focusing on standard development process issues and agency participation, and we do not comment on incorporation by reference (IBR) and conformity assessment issues.

General Comments

I. The Circular Should Clarify that Generalized Articulations of Agency "Mission" or "Need" Do Not Justify Agency Participation in Private Standard Development Activities Where No Statutory Authorization Exists.

The fundamental purpose of the Circular is to encourage the use of private sector standards as a surrogate for development of government-unique standards (regulation/procurement requirements). The federal policy has been successful in achieving this purpose. While the private standard development arena provides great flexibility for agencies to seek creative solutions to agency needs, it is important to remind agencies that existing law also places scope limits on when agencies can participate as part of the standard development process – and on what they can propose or promote when they do participate. In short, a private standards activity should not become an avenue for an agency to circumvent or enlarge its statutory authority.

The Circular should not provide agencies with carte blanche to use the private sector standard development process to develop standards that are inconsistent with their statutory authorizations. Section 12(d)(1) of the National Technology Transfer and Advancement Act (NTTAA) provides that "…all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments."[3] [Emphasis added]. This important provision of the NTTAA is often overlooked; it is self-evident that federal agencies implement policy established by the president or the legislature, making policy directly only where they have delegated authority to do so.

Furthermore, this section of the law should be read together with Section (d)(2), which requires agency participation in consensus standard development "when such participation is in the public interest and is compatible with agency and departmental missions, authorities, priorities, and budget resources." [Emphasis added]. Notably, this provision presents agency mission and authority in the conjunctive, not the disjunctive; just because an activity is within a very broad agency mission statement does not mean the agency has statutory authority to develop a standard outside the regulatory process and then bootstrap it back into regulation via the incorporation by reference process or otherwise. Agencies should be suitably cautioned in the Circular that they may not use the private standard development process to achieve an outcome that they would not otherwise have statutory authority to do through regulation.

[3] The National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub. L. No. 104-113, 110 Stat. 775 (Mar.7, 1996), amending the National Institute of Standards and Technology Act ("NIST Act"), 15 U.S.C.A. § 272(b).

II. ACC Supports the Proposal to Express a General Preference for Voluntary Consensus Standards over Non-Consensus Standards.

We strongly support OMB's proposal to express a preference for Federal agency use and selection of voluntary consensus standards (VCS) over voluntary non-consensus standards (VNCS). We likewise support the use of this nomenclature as clear and categorical. While we fully appreciate that the due process and consensus attributes offered in standard development can be more or less robust – much like the difference in procedures between small claims court and complex federal civil litigation – it is important that the Circular consistently express these concepts as two categories, in dichotomy. The application of the Circular should involve, as a threshold matter, identification of standards that are VCS and those that are not, and it should avoid inviting (or challenging) agency staff to determine, after the fact, "how much" due process was afforded in the standard development phase.

In the U.S. the private markets recognize ANSI's consensus development procedures as the gold standard, and internationally, ISO procedures are recognized and accepted. Organizations that demonstrate that they in fact followed ANSI procedures in the development of standard can achieve "certification" from ANSI in a third party oversight role through ANSI approval. We suggest that at least one illustration of what is a voluntary consensus standard, and one illustration of what is not, could be very helpful to federal agencies, standards organizations, the regulated and procurement communities, and other stakeholders and the general public.

III. OMB's Proposal to Expand Several Definitions related to Consensus Attributes is Useful and Welcome, and We Urge OMB to Ensure Maximum Alignment with National and International Consensus Definitions Before Making the Revisions to the Circular Final.

In our 2012 comments, ACC suggested that OMB expand upon the bare-bones, categorical descriptions of minimal consensus attributes contained in the Circular and provide additional granularity, with minimal alignment to recognized U.S. procedures for voluntary consensus standard development published by ANSI with appropriate consideration of international procedures published by ISO. We appreciate OMB's effort to provide expanded definitions with respect to several consensus attributes. Unfortunately, the definitions offered in the Circular do not appear fully aligned with ANSI/ISO definitions. We encourage OMB to align definitions to the greatest degree possible to avoid confusion and provide clarity.

IV. OMB Should Be Clearer that Use of or Participation in Development of Non-Consensus Standards Should Be Both Rare and Well-Justified against Objective Criteria.

In our 2012 comments, we offered that OMB should provide clear guidance that consensus standards are preferred unless certain limited conditions are met. We observed that cases where speed is needed for a standard to "catch up" to emerging technology might be one such occasion. We suggested that a stringent set of criteria be established and that non-consensus standards be deemed to meet these criteria before they would be considered suitable for use. Those criteria are:

- The SDO has provided a clear justification for proceeding with development without a full consensus process, including demonstrating a need for an accelerated standard development process due to changes in technology and actual market demand for standard; a compelling national security concern; or a compelling public health reason;

- The SDO considered whether the standard is intended to be used by or will materially impact a broad and diverse group of stakeholders whose technical expertise is needed to fully inform standard development, and if so, secured the participation of such stakeholders;
- The SDO developed a complete and robust technical standard informed by appropriate scientific and/or technical expertise in the development process; and
- The SDO piloted, tested, peer reviewed or otherwise evaluated the standard for technical integrity and performance.

We specifically pointed to an emerging area of standards, sometimes called "green," "sustainability," or "ecolabel" standards as an area for special consideration. Some developers of sustainability standards have expressed a desire to develop these standards quickly, and have complained that traditional voluntary consensus standard development processes are slower than they would like. However, there are also many compelling reasons as to why standards should be developed thoughtfully through a consensus process. And admittedly, if speed is the most important attribute of standard development, most would agree that it is generally easier to hand-pick a small group of like-minded people, exclude everyone with a different point of view from the development and decision making processes, and reach a decision quickly. If speeding up the standard development process means eliminating or diminishing critical stakeholder participation, operating out of the public view, and otherwise jettisoning other procedures, there should be compelling reasons for making these sacrifices to justify the trade-offs. The need for hyper-accelerated standard development such that stakeholders are excluded and other sacrifices made should only occur in limited, identifiable circumstances such as national security or public health. Developers of private standards should not be able to reject voluntary consensus development procedures based on the mere assertion of organizational or market "desire" for more speed.

V. Improved Notice to the Public of Federal Engagement in Private Standard Development is Welcome and Additional Notice is Encouraged.

We also agree with OMB's proposal that agencies should be required to notify the public when participating in private sector standard development process. It is our view that all such engagement, large or small, including identification of authorized and lead agency representatives, should be readily, publicly available. In the internet age, this notice is a negligible burden. If an agency representative serves in a leadership position (such as a committee chairman or having drafting responsibilities) this information should be reported as well. The information should be available regardless of whether the engagement is on a voluntary consensus standard or non-consensus standard, although as noted earlier agencies participation should generally be limited to the development of voluntary consensus standards

There are compelling reasons to provide this information. The private standard development marketplace is huge and growing. Every day, small businesses have to decide which standards under development are important to their business, and where it is imperative they participate. The same is true for non-profit organizations, public interest groups, and other stakeholders. There are tens of thousands of standards in development in the U.S. in any given year, and stakeholders have to make hard choices with limited resources where to engage. Understanding which standard development activities have captured the interest and participation of federal agencies – or are being led by federal agencies - is extremely important and relevant information to the public.

The proposal suggests that notice be provided in the case of "national priority issues or to support regulatory action or international regulatory cooperation." ACC believes that activity to support federal procurement decisions or other programs, regardless of size, should also be noted. If an agency wants to develop a standard for a valve it intends to specify for procurement purposes, for example, a small business in Des Moines that manufactures that impacted valve is certainly a "materially interested"

stakeholder. A standard that seems small and insignificant to the government may be the entire livelihood of a single small business and thus openness and transparency should be encouraged.

VI. Full and Balanced Participation of Federal Stakeholders in Private Standard Development Should be Welcomed, but with Appropriate Admonition to Federal Representations About Accepting Leadership Positions.

OMB also proposes relaxing the rules for Federal agencies to fund standard development. We encourage the greatest possible transparency, at the earliest points in the process, with respect to Federal funding to establish SDOs, participate in standard development, and provide grant monies to SDOs for operation. Since avoiding Federal government dominance in the private standard development sphere is essential to the integrity of the standard development process, we also suggest OMB provide further guidance to agencies to avoid situations where their "leadership" at multiple steps of the process may aggregate to create a dominance problem. For example, an agency might provide all the start-up funding needed to create and operate an SDO, then offer to serve on the Board, then populate the technical committees with multiple agency staff representatives and provide committee chairmen. In isolation each type and degree of agency participation might be appropriate, but in the aggregate, the agency would in fact or appearance be controlling the private standard development process. Where there is significant start up or ongoing funding to an SDO, OMB might therefore specially caution agencies from maintaining leadership roles in the development process.

It would be very useful to have a single, central, publicly available clearinghouse for the various kinds of notice and information required or encouraged by the Circular. We suggest that NIST would be the natural collection point for such information, given its separate statutory obligation to collect certain standards participation information. And certainly, agency use of any voluntary standard – consensus or non-consensus – should be reported to NIST. Full transparency, not to mention a full data set, demand this. In addition, it is important that use of non-consensus standards not be inadvertently incentivized, inconsistent with the purposes of the Circular, by reducing agency reporting requirements and tracking obligations vis-à-vis consensus standards.

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Specific Comments

Section 1, Background, "What is the Purpose of this Circular."

We appreciate that the governing law, as referenced in the Circular, is the National Technology Transfer and Advancement Act of 1995 (NTTAA), and that the Circular directs agencies to use "standards developed or adopted by voluntary consensus bodies rather than government-unique standards." We certainly agree with the stated purpose. We note, however, that there is some confusion as to what is a voluntary consensus body, and some have argued that such "bodies" can vary the application of standard development principles. In short, a particular standard development organization (SDO) might be accredited as a voluntary consensus body, but choose not to apply voluntary consensus development principles in the development of a particular standard. To remove ambiguity, we suggest that the Circular add a clarification that a voluntary consensus standard body must actually apply recognized voluntary consensus standard development procedures for a given standard to be deemed a voluntary consensus standard.

Section 3, Definitions, "What is a Standard."

The proposed revision, like the current Circular, defines "standard" to mean "technical" standard, consistent with the NTTAA, which defines voluntary consensus standards as "technical" standards. In the 1998 revision, OMB explained its differentiation between "technical" standards, which are suitable for inclusion as part of a regulatory requirement, versus "regulatory" standards:

> A few commentators inquired whether the Circular applies to "regulatory standards." In response, the final Circular distinguishes between a "technical standard," which may be referenced in a regulation, and a "regulatory standard," which establishes overall regulatory goals or outcomes. The Act and the Circular apply to the former, but not to the latter. As described in the legislative history, technical standards pertain to "products and processes, such as the size, strength, or technical performance of a product, process or material" and as such may be incorporated into a regulation. [See 142 Cong. Rec. S1080 (daily ed. February 7, 1996) (Statement of Sen. Rockefeller.)] Neither the Act nor the Circular require any agency to use private sector standards which would set regulatory standards or requirements.

In our 2012 submission, we asked OMB to consider better differentiating between technical and non-technical standards. To effect this, we suggest that OMB may wish to include additional clarification as to what is "not" a technical standard in subsection 3(b). A technical standard would not be, for example, the policy or value judgment of a private group; likewise, it would not be a purely subjective standard lacking an acceptable scientific or technical basis. The Circular should also note that agencies should decline to use, for regulatory or procurement purposes, "non-technical" standards that articulate the policy views or regulatory objectives of a private sector group.

Section 3(e), Definition of "Voluntary Consensus Standard."

OMB proposes defining "Voluntary Consensus Standard" as a subset of technical standard solely based on its development or adoption by a voluntary consensus body, and these bodies are separately defined in 3(f) as using agreed-upon procedures with specified attributes. Since standards development bodies do not always apply these principles (e.g., the same SDO may develop both voluntary consensus standards and non-consensus standards), we suggest that the definition of "voluntary consensus standard" be further modified to require some assurance or determination that the procedures actually have been applied to develop a voluntary consensus standard. Third-party certification is certainly helpful in this regard, although it is neither essential nor dispositive in itself. The following definitional modification may be useful:

> *e. "Voluntary consensus standard" is a type of voluntary standard that is developed or adopted by a voluntary consensus standards body where that body has applied its voluntary consensus standards development process, consistent with 3(f), to the development of that particular standard.*

We note that Section 3(f)(i), "Openness," includes a new provision that the attribute should be present "at all stages of standard development," but this temporal/stage concept does not appear in the other definitions of attributes. We believe that private sector due process and consensus principles demand adequate due process for all materially affected parties at all stages of standard development. A particular category of stakeholders, for example, should not magically lose the right to appeal at the appeals phase, or be subject to a different set of appeal procedures than other categories of stakeholders. The better approach may be to note that due process principles demand openness and balance, during all stages of standard development.

With respect to Section 3(f)(v), "Consensus" (agreement), we revisit a specific concern related to the development of highly complex system standards. Increasingly, particularly in the field of "sustainability" or "green" standards, standards are bundled and presented as a system to enable ease for users. The nature of these system standards, however, means that multiple technical committees are needed with different market, product, scientific, and other expertise and knowledge to develop and agree on individual standards. To illustrate, to build a more environmentally sustainable car across all components, it would be necessary for fuel formulation experts to convene to work on fuel formulations; the same for engine oil; the same for catalytic converters; the same for design experts conversant with materials of construction designed to lightweight an auto body to reduce fuel emissions and greenhouse gas reductions; and so on. This is but a tiny sample of what would be needed to develop a credible, technically sound standard for just the components of the complete system (the car). It would be meaningless to convene a final consensus body at the end of the entire process with no fuel experts present, declare balance nonetheless, and expect the body to be able to sign off on the technical integrity of the elements of the system that apply to fuel. Consensus agreement becomes meaningless in this context. Consensus with respect to the fuel system should have occurred at the standard development stage that included the participation of fuel experts (likely a technical committee or other development committee). With complex systems, consensus agreement may need to occur at multiple phases – building consensus brick by brick – rather than merely throwing the tarp of "consensus" over a pile of sticks at the end of the process. A clarification with an appropriate caution that consensus agreement may need to occur at multiple phases in multiple committees, depending on the nature of the standard being developed and the size, scope, and complexity of the "sector" (OMB helpfully offers the "sector" concept in Section 3(f)(ii), Balance of Representation; we suggest this expansion and clarification) would be helpful.

Section 6(a), "When Must My Agency Use Voluntary Consensus Standards."

The second paragraph of this section recognizes that certain non-consensus standards may be suitable for use, "particularly in emerging technology areas." Some have pointed out that non-consensus standards development consortia can sometimes develop and deliver standards more quickly if they bypass certain procedures used in consensus standard development. We note, however, that when it comes to technology or product design and performance, the participation and agreement of the manufacturer and user, as well as critical component and material manufacturers, are virtually always necessary to the technical integrity and success of the standard. For that matter, standards that exclude competing manufacturers or upstream suppliers in the development process are accompanied by higher antitrust risk. In short, it is worth noting that use of non-consensus standards that excluded (or failed to solicit) appropriate participation from the producer and user categories of stakeholders carry additional risks that should be carefully considered. Therefore, the Circular should make clear that agency participation in the development of, and use, of non-consensus standards should be the exception rather than the rule; it should be limited to situations where absolutely necessary, where justified by compelling reasons, and where critical to the agency meeting its needs.

Section 6(e), When Deciding to Use a Standard, What are Some of the Things My Agency Should Consider?

OMB should be clearer that a threshold decision for an agency is whether a voluntary consensus standard is available or could be developed to meet agency needs. If an existing voluntary consensus standard could be modified to better meet agency needs, agencies should be encouraged to request an update to the standard to seek this modification, and participate in the voluntary consensus development process. To help further reinforce this point, OMB should consider refining this Section 6(e) to clarify that the criteria apply to selection of voluntary consensus standards

In addition to our more specific comments below, we suggest that OMB include an additional consideration to those enumerated in this Section that addresses the ability to quantitatively measure the performance of the standard. Particularly in the health and safety arena, some standards may claim to provide a "level" of health or safety protection or an improvement, but do not (or cannot) offer a measurable improvement in fact. For example, a product might be designed with an encapsulated interior component containing a particular chemical to which no human exposure can occur during the use of the product, so a toxicologist would classify human health risk to be zero. A risk of zero cannot be reduced to less than zero, so a product standard that eliminated that chemistry and claimed to be delivering a safer product would not be able to substantiate the claim.

Section 6(e)(iii)(1)(b), "The Level of Health or Safety Protection the Standard Provides."

We are pleased to see a construction that does not say "the level of health or safety protection the standard claims to achieve" but rather, actually "provides," which suggests a performance or conformity measure is needed.

Section 6(e)(iii)(1)(g), "The Extent to Which the Standard Establishes Performance Rather than Design Criteria, Where Feasible."

The current version of the Circular more clearly establishes a preference for performance standards, and by implication, performance criteria, over prescriptive criteria than the proposal. We suggest that the preference for performance standards and criteria be more clearly retained. In addition, we suggest that OMB consider the change from "prescriptive" criteria to "design" criteria, which we believe may create confusion. Design criteria can be either performance-based or prescriptive.

Note that Subsection (k), "Should My Agency Give Preference to Performance Standards," distinguishes between performance and prescriptive standards, not performance and design standards. We suggest that the performance/prescriptive distinction be maintained consistently throughout the Circular.

Section 6(e)(iii)(2), "The Nature of the Agency's Statutory Mandate and the Consistency of the Provisions of the Standard with that Mandate."

We appreciate and agree with the principle set out here, but as drafted, it suggests that agencies can go outside their statutory mandate in selecting standards for use. In our view, Federal use of a standard for regulatory or procurement purposes where the standard or elements thereof are outside the statutory authority of the agency is at best unwise, but is certainly inconsistent with the purposes of the Circular and the NTTAA, and may invite a legal challenge. We suggest that the consistency of a standard with an agency's statutory mandate is a not a matter for sliding scale evaluation, but a threshold criterion to be satisfied.

Section 6(e)(iii)(3), "The Extent to which the Body When Preparing the Standard Reflected the Attributes of Voluntary Consensus Standards Bodies."

We appreciate that the degree of due process afforded by a standard developer can vary widely. We note, however, that the Circular differentiates between voluntary consensus standards and non-consensus standards. The first category is to receive preferential treatment. This section suggests a sliding scale

approach is appropriate to evaluating a standard for use. It would be consistent with the general approach outlined in the proposal for this section to clarify that voluntary consensus standards are all one category and all receive preferential treatment over the uses of a non-consensus standard. Only to the extent that a non-consensus standard must be used should an agency consider the relative "degree" of due process provided. In such cases – where a non-consensus standard is to be considered – an agency should specifically consider whether any critical stakeholder groups were excluded such that the technical integrity and viability of the standard may be impaired or such that use of the standard carries an increased risk of antitrust litigation or sustained stakeholder opposition.

Section 6(f)(iii), Does this policy establish a preference between voluntary consensus standards and other types of standards?

Here, OMB proposes that "[w]here a voluntary consensus standard does not exist or use of an existing voluntary consensus standard would be inconsistent with law or otherwise impracticable, this policy allows agencies to use standards that are not developed or adopted by voluntary consensus bodies." As we note elsewhere in our comments, the preference for voluntary consensus standards, as well as participation in their development – whether by funding, committee participation, leadership or otherwise – should be strong.

Section 7, What is the Policy for Federal Participation in Voluntary Standards Bodies?

Voluntary consensus development principles serve important purposes to help develop technically sound standards generated in an environment that builds market acceptance and helps identify and resolve potential anticompetitive issues before the standard is finalized. These procedures also provide protection and credibility to government agencies choosing to participate as stakeholders in the development process. It is important to remember that the Circular encourages use of private sector standards in lieu of government-unique standards for regulatory and procurement purposes, and thus the only "stand in" available for the administrative and other procedures that would be available to the public in rulemaking/procurement contexts are the procedures of the standard developer. For example, agencies gain credibility and even legal protection when they participate in proceedings that are well noticed to the public, open and transparent, and prepare and publish minutes promptly.

Section 7(a), Must Agency Participants Be Authorized?

We agree that agency representatives who participate in standards activities must be specifically authorized to so participate. We suggest that lists of so-authorized representatives and the activities with which they are participating be readily available to the public, as this will assist in notifying other stakeholders of agency engagement. It would be particularly helpful to have information organized and accessible by agency. It may be useful to have NIST provide this information.

We note with interest the cited legal opinion from the Department of Justice that "when the Board of an outside organization plays an integral role in the process of setting standards" that it would frustrate the purpose of the NTTAA to forbid federal employees from being on the board. While we agree with this principle, in practice very few boards in fact involve themselves "in the process of setting standards." Participation on boards is generally limited to a small handful of stakeholders, so it becomes very difficult for boards to have balanced composition and achieve consensus decisions with respect to standard development that would satisfy consensus procedures. Board members generally do not participate on technical development committees nor do they typically participate as members of the consensus or

voting body on the standard. For that matter, boards often limit their engagement to matters related to steering the organization, deciding on procedural rules and requirements, and operational, administrative, and financial matters for the organization.

We believe additional guidance, and a strong caution, is in order because the change in the proposal to allow federal employees to serve on the non-profit boards of standard developers should be rare indeed. There would be few, if any, circumstances where a board would be directly engaged in standard setting, and as noted, this participation would make it very unlikely that the organization was acting as a voluntary consensus standard developer in the first place. While service on a board does not need to be outright prohibited, OMB should caution agencies that because boards rarely engage directly in standard setting, it would be extraordinarily rare for an agency to sit on a board.

This section should also cross-reference the consensus standard attributes of balance and lack of dominance. Part of the difficulty of allowing agency participation on a private sector board is that government participation by an agency with regulatory or procurement authority can be inherently more "dominating" because these agencies simply come the table with more power and sometimes market authority than other stakeholders. Mere participation on a board may be enough to suggest undue influence. Another factor on which additional guidance from OMB would be helpful is the matter of participation by multiple federal agencies. A single standard might invite participation from multiple agencies. In such cases, having multiple federal agencies serve on a board only magnifies the problem.