



PUBLIC.RESOURCE.ORG ~ A Nonprofit Corporation

Public Works for a Better Government

July 22, 2015

VIA HTTP

FOIA Officer
Departmental Freedom of Information Office
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230
HTTP: <https://foiaonline.regulations.gov/foia/>

RE: Freedom of Information Act Request

Dear FOIA Officer:

On behalf of Public.Resource.Org, and pursuant to the Freedom of Information Act, **5 U.S.C. § 552**, I am submitting this request. Please provide the records in electronic form if possible. This request is specifically directed to the Ethics Law and Programs Division of the Office of the Assistant General Counsel for Administration.

Ms. Mary H. Saunders is the Associate Director for Management Resources at the National Institute of Standards and Technology. Ms. Saunders also serves as the Vice Chair and previously served as the Interim Chair of the American National Standards Institute (ANSI), and is a member of ANSI's Executive Committee. Ms. Saunders also served on the Board of Directors of ASTM International from 2010-2012 while employed at NIST.

In **FOIA Request 2015-001617**, NIST disclosed to me document **NIST O 805.01**, "Participation in Documentary Standards Activities," effective October 11, 2012. This document contains a series of provisions that govern the activities of staff participation in Standards Development Organizations such as ANSI and ASTM International. In particular:

- NIST O 805.01 requires that all NIST Employees "clear with DOC Ethics Division all invitations to serve on boards or policy making bodies of standards bodies approved for NIST membership." I am requesting any records concerning the participation of Ms. Saunders on the boards of ANSI and ASTM International.

Government officials serving in a fiduciary capacity in nonprofit organizations are subject to certain constraints, which are specified in **18 USC § 208(b)(2)** and **5 CFR § 2640.203(m)**. These constraints are detailed in the Office of Government Ethics **Legal Advisory LA-13-05**, "18 U.S.C. § 208(b)(2) Exemption for Official Participation in Nonprofit Organizations" (April 9, 2013). In particular:

- Legal Advisory LA-13-05 states "it is a best practice for agencies to commit the scope of an employee's permissible activities to writing in a memorandum of

understanding between the agency, the employee and the nonprofit organization.” I am requesting a copy of any such memoranda and supporting documents leading to the issuance of such memoranda.

Public.Resource.Org requests that all fees in connection with this FOIA request be waived in accordance with **5 U.S.C. § 552(a)(4)(A)(iii)**, because it does not seek the records for a commercial purpose and disclosure “is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the government.”

Public.Resource.Org does not have a commercial interest in the requested record. Public.Resource.Org is a 501(c)(3) public charity chartered to make government information more broadly available without fee to any and all users.

Public.Resource.Org has demonstrated an ability to disseminate information about the government and its activities to the public. It is one of the largest distribution sites for public information related to the U.S. government, including over 14,000 hours of video from Congressional hearings posted at the request of the Speaker of the House, over 8 million Form 990 reports filed with the Internal Revenue Service, over 6,000 U.S. government videos posted in cooperation with the Archivist of the United States, and the historical opinions of the U.S. Court of Appeals. As the President of Public.Resource.Org, I am frequently quoted in major media publications such as **the New York Times, Business Week, the New Republic, and the Washington Post**. I also testify before Congress on issues of public access to government information and am a frequent public speaker on the subject.

Accordingly, we request that you waive all fees for locating and duplicating the requested record. If, however, a waiver is not granted, and if the fees to be assessed in connection with this request exceed \$200, please obtain my approval before any such costs are incurred.

We will expect a response within 20 working days as provided by law. If you have any questions regarding this request, please contact me at (707) 827-7290.

Thank you very much for your attention to this matter.

Sincerely,



Digitally signed by
Carl Malamud
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, ou,
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, c=US
Date: 2015.08.06
09:24:39 -07'00'

Carl Malamud
President & CEO
Public.Resource.Org

cc: David Halperin
Of Counsel
Public.Resource.Org