

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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AMERICANS FOR PROSPERITY FOUNDATION )  
1310 North Courthouse Road, Suite 700 )  
Arlington, VA 22201, )

*Plaintiff,* )

v. )

U.S. DEPARTMENT OF COMMERCE )  
1401 Constitution Avenue NW )  
Washington, D.C. 20230; and )

NATIONAL INSTITUTE OF STANDARDS )  
AND TECHNOLOGY )  
100 Bureau Drive )  
Gaithersburg, MD 20899, )

*Defendants.* )

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**COMPLAINT EXHIBIT 17**



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Institute of Standards and Technology**  
Gaithersburg, Maryland 20899-0001

Kevin Schmidt  
Americans for Prosperity Foundation  
[KSchmidt@afphq.org](mailto:KSchmidt@afphq.org)

Dear Mr. Schmidt:

This letter is to inform you of our decision regarding your fee waiver request for your Freedom of Information Act (FOIA) request to the National Institute of Standards and Technology (NIST) for:

**“AFPF is investigating how the Department of Commerce and the National Institute of Standards and Technology (NIST), where the CHIPS Act Program Office resides, are attempting to add onerous and counterproductive requirements to the CHIPS Act, even [restrictions specifically rejected](#) by Congress.<sup>2</sup> Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, AFPF hereby requests the following records:**

- 1. All internal or external communications (email, text, instant messaging, calendar items) including attachments, that are responsive to any of the following keyword searches: a. “CHIPS” AND “buybacks”**
  - a. “CHIPS” AND (“NEPA” OR “National Environmental Policy Act”)**
  - b. “CHIPS” AND (“profit” OR “upside sharing”)**
  - c. “CHIPS” AND (“child care” OR “childcare”)**
  - d. “CHIPS” AND “Buy America”**
  - e. “CHIPS” AND ([“Biden” OR “POTUS”] AND [“election” OR “2024”])**
  - f. “CHIPS” AND (“ESG” OR “Environmental”)**

**The time period for this request is November 1, 2022 to the present. Please limit the search to the following records custodians and include any alias accounts maintained by those individuals:**

- A. NIST Director Laurie Locascio**
- B. Mike Schmidt, Director of the CHIPS Program Office**
- C. Eric Lin, CHIPS Research and Development Office**
- D. Adrienne Elrod, Director of External and Government Affairs**
- E. Rebecca Callahan, Director of Legislative Affairs**
- F. Morgan Dwyer, Chief Strategy Officer**
- G. Atissa Ladjevardian, Chief of Staff for External and Government Affairs**
- H. Sara Meyers, Chief Operating Officer & Chief of Staff**
- I. Kylie Patterson, Senior Advisor for Opportunity and Inclusion**
- J. Matt Hill, Communications Director”.**

The logo for the National Institute of Standards and Technology (NIST), consisting of the letters "NIST" in a bold, blue, sans-serif font.

Regarding your request for a fee waiver, a fee waiver is appropriate when “disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552 (a) (4) (a) (iii). I considered six factors in my determination as to whether your request satisfies this statutory standard: (1) whether the subject of the requested records concerns “the operations of activities of the government”; (2) whether the disclosure is “likely to contribute” to an understanding of government operations or activities; (3) whether disclosure of the requested information will contribute to the understanding of the general public; (4) whether the disclosure is likely to contribute “significantly” to public understanding of government operations or activities; (5) whether the requester has a commercial interest that would be furthered by the requested disclosure; and (6) whether any such commercial interest outweighs the public interest in disclosure. See 15 C.F.R. § 4.11(l).

Based on the information you have provided; I have decided to approve your request for a fee waiver. In reaching my conclusion I have analyzed the above factors as they apply to the circumstances of your request. We are proceeding with the search, review and duplication of documents responsive to your request.

The FOIA permits an agency to extend the time limits up to 10 days in unusual circumstances. These circumstances include the need to collect records from remote locations, review large numbers of records, and consult with other agencies. As the responsive documents to your request will need additional time for the search, review and duplication of responsive documents, I am invoking an automatic ten-working-day extension to respond to your pending FOIA request. Responsive documents will be forwarded to you on a rolling basis as they become available.

Sincerely,

CATHERINE FLETCHER  Digitally signed by CATHERINE  
FLETCHER  
Date: 2023.04.20 14:47:16 -04'00'

Catherine S. Fletcher  
Freedom of Information Act Officer