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Intent and Spirit of the Freedom of Information Act Officer
Office of the General Counsel
Smithsonian Institution
PO Box 23286
Washington, DC 20026

Dear Sir/Madam:

This is a request under the Freedom of Information Act, which the Smithsonian Institution follows in the "intent and the spirit of the law." ([Smithsonian Directive 600](#), §8(b)(5)). I request a copy of specific details, including a copy of any incorporating or contractual documents, relating to the agreement between the Smithsonian Institution and [Showtime Networks, Inc.](#) regarding the [creation of Smithsonian Networks](#). In order to help to determine my status for purposes of determining the applicability of any fees, you should know that I am affiliated with a nonpartisan, 501(c)(3) research institution and this request is not for commercial use.

I am willing to pay fees for this request up to a maximum of \$200. If you estimate that the fees will exceed this limit, please inform me first. I request a waiver of all fees for this request. Disclosure of the requested information to me 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 my commercial interest. In particular, it is important that the public understand the specific details of the rights and obligations of the Smithsonian Institution with regard to this agreement and if said agreement will impact the primary purpose of the Institution, "the increase and diffusion of knowledge among men." ([U.S.C. Title 20, Chapter 3, Subchapter I, §41](#)). Any documents you furnish shall be disseminated for the public benefit at no charge on our web site.

The specific details of the contract between the Smithsonian Institution and Showtime Networks, Inc. are particularly important. Restrictions on the use of the public archives should not be considered confidential information under [Exemption 4](#) of the Freedom of Information Act. In fact, releasing this information makes other players in the industry aware of the value placed on these unique archives and will thus help the Institution's "ability to obtain necessary information in the future." (*National Parks & Conservation Association v. Morton*, 498 F.2d 765 at 770). Because this new joint venture draws on unique resources under the auspices of a public institution there is no "actual competition." (*CNA Financial Corp. v. Donovan*, 830 F.2d 1132 at 1152) In any case, it is important that overall terms of the contract be made available, and it is "undisputed that the total price of the contract may be made public." (*McDonnell Douglas v. NASA*, 180 F.3d at 306)

I ask that my request receive expedited processing because there is great concern among the general public as well as among those engaged in the creation of documentary films concerning the actual or alleged news reports that this agreement with Showtime Networks, Inc. will impact the ability of independent filmmakers to engage in their trade or lessen access by the general public to these important cultural resources.

Sincerely,

Carl Malamud
Senior Fellow/Chief Technology Officer
Center for American Progress