

Federal Advisory Committee Act (FACA) Overview

Briefing for Members of Department of
Homeland Security Advisory Committees

Georgia C. Abraham
Committee Management Officer



**Homeland
Security**

Federal Advisory Committee Act (FACA)

Federal Advisory Committees Government Wide—FY-11

- 1029 Committees
- Approximately 70,000 committee and subcommittee members served
- 51 Executive Departments and Agencies involved
- 46 Committees directly advised the President
- Approximately 7,500 meetings held per year
- 1023 advisory committee reports issued
- Approximately \$395 million in total annual expenditures, approximately 47% Federal staff costs and 16% travel and per diem costs

Federal Advisory Committee Act (FACA)

DHS Advisory Committees—FY-11

- 26 Committees
- 2 Committees directly advise the President, 14 are statutory and 10 are discretionary committees
- 483 Committee and subcommittee members served
- 46 Meetings held
- 20 Advisory committee reports issued
- Approximately \$6.1 Million in total annual expenditures, 56% Federal staff costs and 7.4% travel and per diem costs

<http://www.fido.gov/facadatabase/> <http://www.gsa.gov/efaca>

Federal Advisory Committee Act (FACA)

What is the Federal Advisory Committee Act?

FACA is the statute (P.L. 92-463) that governs the management and operation of committees established by a Federal agency to obtain advice from non-Federal individuals or entities. (5 United States Code, Appendix)

FACA (cont.)

The Act was designed to fulfill two basic purposes:

- *To Enhance Public Accountability of Advisory Committees.*
 - To control the undue influence of special interests by balancing committee membership, and
 - To ensure that public access to committee deliberations is maximized.

- *To Reduce Wasteful Expenditures on Advisory Committees.*
 - To improve the overall management of committee activities by establishing a set of management controls.

FACA (cont.)

An advisory committee is:

Any committee, board, commission, council, conference, panel, task force, or other similar group which is established by statute, or established or utilized by the President or by an agency official, for the purpose of obtaining advice or recommendations and which has at least one member that is not a Federal employee.

FACA (cont.)

Advisory committee characteristics:

- Is established or utilized by the Federal government
- The Federal government appoints members or influences the membership of a non-Federal group.
- Has non-Federal members (even one).
- Provides advice and recommendations to a Federal official.
- Membership is balanced relevant to the issues the committee will address.

FACA (cont.)

Subcommittee:

A group, generally not subject to the Act (FACA), that reports to an advisory committee and not directly to a Federal officer or agency, whether or not its members are drawn in whole or in part from the parent committee.

FACA (cont.)

Subcommittee characteristics:

- Established by the Agency, usually by the Designated Federal Officer. Subcommittees are not chartered.
- Reports only to the parent committee. Subcommittees may not report to a Federal official or other non-Federal group.
- Membership is balanced relevant to the issue the subcommittee will address.

Committee Operations

- Advisory committee meetings are required to be open and announced to the public, with limited exceptions.
- Members of the public are permitted to file written statements with the committee and may be permitted to address the committee if agency's guidelines permit.
- The Agency approves the agenda for each advisory committee meeting and authorizes the committee to meet. The Designated Federal Officer (DFO) performs this function.
- The DFO must attend all meetings of the committee and its subcommittees.
- Advisory committees have no operational authority; they make recommendations to a Federal official or agency.

Subcommittee Operations

- The DFO approves the agenda for each subcommittee meeting and authorizes each subcommittee meeting.
- The DFO must attend all meetings of the subcommittee .
- Subcommittee meetings are not required to be open and announced to the public.
- The agency tasks and briefs the subcommittee, and the subcommittee researches issues and develops draft documents for the consideration of the parent committee.
- The parent committee reviews the work of its subcommittees and develops recommendations at an open meeting.

Membership

Member:

An individual duly appointed to attend and participate in advisory committee meetings.

Unless a statute or Presidential directive provides otherwise, each advisory committee member is appointed by and serves at the pleasure of the Secretary.

Appointments are personal to the member and are not transferable to another individual.

The membership of committees and subcommittees must be fairly balanced in the terms of the points of view represented and the functions to be performed by the committee or subcommittee.

Member Responsibilities

- Attend and actively participate in all meetings, whether in person or by teleconference. Members should come to meetings prepared.
- Serve on subcommittees established by the agency (DFO).
- Keep the purpose of the committee in focus.
- Be aware of your role; for representative members, the perspective of your stakeholder group; for SGEs, your independent judgment based on your expertise.

Restrictions on Members' Activities

- Members may not use their access to the Federal government as a member of an advisory committee to solicit business or otherwise seek economic advantage for themselves or their companies.
- Members may not use any non-public information obtained in the course of their duties as a member for personal gain or for that of the company or employer.
- Members must hold any non-public information in confidence, for example, information developed by a subcommittee that has not yet been reported to the parent committee at a public meeting.
- Members may not represent themselves as members of a DHS advisory committee on business or personal cards or letterhead.

Restrictions on Members' Activities (cont.)

- Members may list their service on advisory committee in their resumes.
- The committee as a whole may advise the agency on legislation or recommend legislative action. However...
- *In their capacities as members of a committee*, individual members may not petition or lobby Congress in support of or in opposition to particular legislation or encourage others to do so.
- Members of committees are advisors to DHS and have no authority to speak for the committee, the Component, or for the Department.

Restrictions on Members' Activities (cont.)

- Members may not testify before Congress in their capacity as a member of an advisory committee. If requested to testify before Congress, members:
 - Cannot represent or speak for the committee, DHS, any agency, or the Administration in their testimony.
 - Cannot provide information or comment on committee recommendations that are not yet publicly available (e.g. subcommittee work that has not been provided to the parent committee).

Restrictions on Members' Activities (cont.)

- May state that they are a member of the committee.
- May speak to the personal observations as to their service on the committee.
- These restrictions apply if a member is speaking outside the committee structure at other forums or meetings.

Contact Information

Georgia C. Abraham

Committee Management Officer

Department of Homeland Security

Ph: (202) 282-9150 ❖ Fax: (202) 282-9207

E-mail: *Georgia.Abraham@dhs.gov*