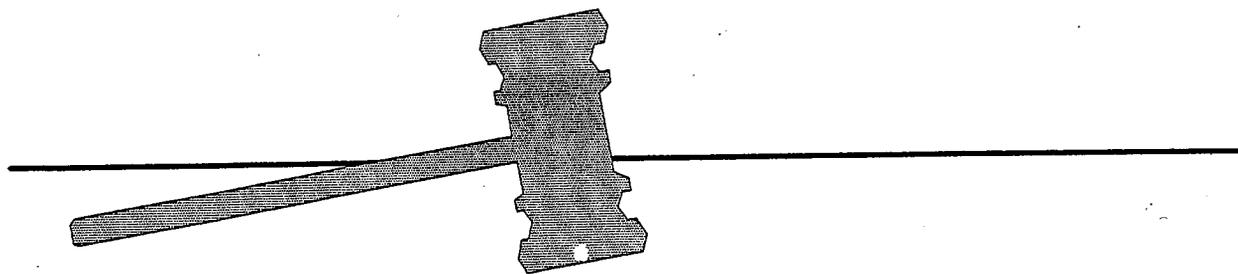


U.S. DEPARTMENT OF COMMERCE

Committee Management Handbook



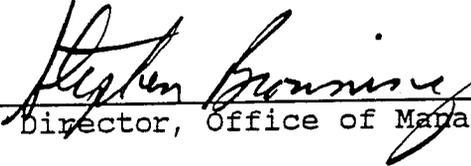
OFFICE OF THE SECRETARY
Office of Management
and Organization

U.S. DEPARTMENT OF COMMERCE
COMMITTEE MANAGEMENT HANDBOOK

Date:

Transmittal No.: 3

The Committee Management Handbook, authorized by DAO 201-2 of August 18, 1980, serves as the Department's primary reference prescribing policies, procedures, and responsibilities for implementation of the Federal Advisory Committee Act, 5 U.S.C. App. 2.


August 23, 1988
Acting Director, Office of Management and Organization

Material Included in this Transmittal:

1. Copy of the Committee Management Handbook.

Superseded Material:

Committee Management Handbook issued August 22, 1980 under Transmittal No. 2.

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PART ONE—GENERAL

This Handbook is prescribed by Departmental Administrative Order 201-2, "Committee Management," a copy of which is included here as Exhibit 1.

CHAPTER ONE—AUTHORITIES

This Handbook implements:

- the Federal Advisory Committee Act (5 U.S.C. App. 2) as amended by the Government in the Sunshine Act (5 U.S.C. 552b) (Exhibits 2 and 3 respectively);
- the authority vested in the Secretary of Commerce by Reorganization Plan No. 5 of 1950 and other law;
- GSA Rule on Federal Advisory Committee Management, 41 CFR Part 1016 dated December 2, 1987 (Exhibit 4); and
- relevant guidance and interpretation as may be issued by the Department of Justice and through court decisions.

CHAPTER TWO—DEFINITIONS

"Act" means the Federal Advisory Committee Act, as amended, 5 U.S.C. App 2:

"Advisory Committee" subject to the Act means any committee or other similar group, or any subcommittee or other subgroup thereof, established by statute; or established or utilized by the President; or any agency official for the purpose of obtaining advice or recommendations on issues or policies which are within the scope of his or her responsibilities and which has among its members one or more persons who is not a full-time Federal officer or employee.

"Presidential Advisory Committee" means any advisory committee which advises the President. The committee may be established by the President or by the Congress, or used by the President in the interest of obtaining advice or recommendations for the President. "Independent Presidential advisory committee" means any Presidential advisory committee not assigned by the President, or the President's delegate, or by the Congress in law, to an agency for administrative and other support for which the Administrator of the General Services Administration may provide administrative and other support on a reimbursable basis.

"Committee Member" is an individual who serves by appointment on an advisory committee and has the full right and obligation to participate in the activities of the committee, including voting on committee recommendations.

"Utilized or used" as referenced in the definition of "Advisory Committee" in this section, means a committee or other group composed in whole or in part of other than full-time officers or employees of the Federal Government with an established existence outside the Federal Government which the President or agency official(s) adopts as a preferred source from which to obtain advice or recommendations on a specific issue or policy in the same manner as from an established advisory committee.

"Interagency Committee" is a committee composed solely of representatives of Federal agencies.

"Departmental Committee" is a committee composed of representatives of two or more of the principal organizational elements of the Department, or a committee serving a Department-wide purpose and composed solely of Commerce officers or employees.

CHAPTER THREE—RESPONSIBILITIES

The Secretary is responsible for approving the establishment of an advisory committee, interagency committee and/or departmental committee.

The Assistant Secretary for Administration serves as the Department's Committee Management Officer, and pursuant to the provisions of Department Organization Order 10-5, has been delegated overall authority and responsibility for assuring the Department's compliance with the provisions of the Federal Advisory Committee Act (FACA), GSA Federal Advisory Committee Management Rule, 41 CFR Part 101-6 dated December 2, 1987, and related issuances.

The General Counsel is responsible for legal interpretation of all advisory committee matters, including the interpretation of statutory terms. The General Counsel shall provide the Assistant Secretary for Administration with copies of all legal opinions issued regarding Federal advisory committee matters, where appropriate. The General Counsel is also responsible for the clearance or counter approval of committee charters, charter amendments, and formal closure determinations.

The Office of the Secretary is responsible for clearance of members to advisory committees, and for the clearance of committee charters and charter amendments as they pertain to membership provisions.

Secretarial Officers, Heads of Operating Units and Heads of Departmental Offices are responsible for assuring compliance with the provisions of this Handbook within their organizations. They shall,

- designate a Committee Liaison Officer for their unit or office,
- designate a Designated Federal Officer for each advisory committee, and
- designate a staff contact person for each interagency and departmental committee for which the organization is responsible.

The Director, Office of Management and Organization (OMO), shall act on behalf of and be responsible to the Assistant Secretary for Administration for advisory committee management matters in the Department. OMO shall be responsible for the direction of the Department's committee management program and for monitoring the implementation of this Handbook. OMO shall,

- exercise committee management responsibility for the immediate Office of the Secretary,
- review all proposals, Secretarial abstracts, and formal paperwork dealing with committees for which the Department is responsible and recommend action to the Assistant Secretary for Administration,
- assist the Assistant Secretary for Administration in the conduct of his/her duties as the Department's Committee Management Officer as defined in Section 8b. of the FACA,
- prepare or direct the preparation of Departmental reports, and furnish information on Commerce committees in response to statutory requirements, the Congress, the White House, and the Secretary,
- maintain a Departmental Control File on each of the committees of the Department. The file shall include the original committee charter and all other statutorily required documents (excepting reports submitted by offices and operating units directly to the Library of Congress pursuant to Section 13 of the FACA), and
- provide guidance to Committee Liaison Officers and serve as the focal point for all committee management matters within the Department and between the Department, General Services Administration (GSA), Office of Management and Budget (OMB), and the Library of Congress. Legal matters, including those requiring Justice Department opinion, will be referred by OMO to the Office of the General Counsel (OGC).

Committee Liaison Officers shall serve as the point of contact for all committee management matters within their organizations. Committee Liaison Officer duties include:

- reviewing proposals to establish or renew committees, and/or proposals to close or partially close meetings to the public. Such review shall be for compliance with the requirements and standards of this Handbook;
- maintaining files as prescribed in this Handbook;

- advising and assisting (in conjunction with the organization's legal office) officials and Designated Federal Officers in establishing, chartering, reporting on, and terminating committees; and
- preparing, compiling, or conducting all reports and reviews required by this Handbook, and any special reports or reviews as may from time to time be requested by the Departmental Office of Management and Organization.

Designated Federal Officers shall at all times be fully knowledgeable of all the activities and developments concerning the committee(s) and/or subcommittee(s) assigned to them, including mission and membership matters. Duties include:

- filing reports and maintaining records as prescribed in this Handbook,
- issuing the "call" or approving the plans for each meeting,
- approving the agenda for each meeting (except for Presidential advisory committees),
- ensuring that detailed minutes of each meeting are kept,
- attending all meetings,
- chairing the meeting when directed to do so by the head of the Department, and
- adjourning the meeting when it is determined that adjournment is in the public interest.

General Services Administration (GSA) maintains the Committee Management Secretariat which is responsible for all matters relating to Federal advisory committees. GSA's Committee Management Secretariat is responsible for overseeing and reporting on the advisory committee activities of all Federal agencies.

Office of the Federal Register is responsible for publishing notices of certain advisory committee activities. These include notices of establishments, renewals, and meetings. The *Federal Register* is normally published five times a week.

Library of Congress serves as a depository for Federal advisory committee documents for public inspection and use.

PART TWO—FEDERAL ADVISORY COMMITTEES

CHAPTER ONE—SCOPE AND POLICIES

Section A—Scope

In 1972 Congress enacted the Federal Advisory Committee Act (FACA) to (1) provide uniform standards for the operation of advisory committees established or used within the executive branch, (2) monitor their number and activity, and (3) protect public access to and awareness of their deliberations.

.1 *Applicability.* "Advisory Committee", subject to the Act, means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, established by statute, or established or utilized by the President or any agency official for the purpose of obtaining advice or recommendations on issues or policies which are within the scope or his or her responsibilities. Each advisory committee shall have among its members one or more persons who is not a full-time Federal official.

Committees shall generally be used only when a consensus is desired to advise on a specific subject or subjects. No operational functions shall be assigned to any advisory committee unless specifically authorized or directed by statute or by Presidential action.

.2 *Exceptions.* The provisions and requirements of FACA shall not apply to the following.

- a. Any committee composed wholly of full-time Federal officials.
- b. Any advisory committee specifically exempted by an Act of Congress.
- c. Any advisory committee established or utilized by the Central Intelligence Agency.
- d. Any advisory committee established or utilized by the Federal Reserve System.
- e. The Advisory Committee on Intergovernmental Relations.
- f. Any local civic group whose primary function is that of rendering a public service concerning a Federal program, or any State and local committee, council, board, commission, or similar group established to advise or make recommendations to state and local officials or agencies.
- g. Any meeting initiated by the President or one or more Federal official(s) to obtain advice or recommendations from one individual.
- h. Any committee which is established to perform primarily operational as opposed to advisory functions, except that such a committee may be covered by the Act if it becomes primarily advisory in nature.
- i. Any meeting initiated by a Federal official(s) with more than one individual to obtain the advice of individual attendees and not for the purpose of using the group to obtain consensus advice or recommendations. Such a group may be covered by the Act if an agency accepts the group's deliberations as a source of consensus advice or recommendations.
- j. Any meeting initiated by a group with the President or one or more Federal official(s) to express the group's view, provided that the President or Federal official(s) does not use the group as a preferred source of advice or recommendations.
- k. Meetings of two or more advisory committee members convened solely to gather information or conduct research for the committee, to analyze relevant issues and facts, or to draft proposed position papers for consideration by the advisory committee or a subgroup of the advisory committee.
- l. Any meeting with a group initiated by the President or one or more Federal official(s) for the purpose of exchanging facts or information.

Section B—Policies

The basic policies of the Department are that:

- an advisory committee shall be established only when it is essential to the conduct of Departmental business;
- committees involve an expenditure of resources and, therefore, shall be controlled;
- committees shall have balanced membership, not only in terms of points of view represented and the function(s) to be performed, but also in terms of minority, female, and consumer representation;
- advisory committee meetings shall be open to the public except in those circumstances where a closed meeting shall be determined proper and consistent with the provisions in the Government in Sunshine Act, 5 U.S.C. 552b.;
- committees shall be continued only as long as they are both needed and productive, and shall be promptly terminated when they are either no longer needed or productive;
- committee members shall not be compensated unless compensation is specifically directed by law;
- whenever possible, committee meetings shall be held at Federal facilities to reduce costs; and
- in addition to the creation of an advisory committee and the selection of its members, all critical facets of committee activities such as the approval of agenda, the calling, conduct, and adjournment of meeting, and the establishment of subcommittees, shall be controlled by full-time officials of the Department.

CHAPTER TWO—OPERATIONS

Section A—Chartering

.1 *Statutory Requirements.* The FACA requires that a charter be filed for each advisory committee, whether established by law, the President, or the Secretary. The FACA also specifies minimum data which must be included in the charter.

No advisory committee may operate, meet or take any action until its charter has been filed. When its charter expires, a committee must cease all activity. In most instances, a committee is terminated when its charter expires.

The chartering requirement also applies to a committee "utilized" as an advisory committee, though not established by the Government. A "utilized" committee means a committee or other group composed in whole or in part of other than full-time officers or employees of the Federal Government with an established existence outside the Federal Government which is adopted through institutional arrangements as a preferred source from which to obtain advice or recommendations on a specific issue or policy.

.2 *Charter Preparation and Clearance.* The organization proposing the establishment, use or continuation of a committee is responsible for preparing the charter. Operating units should call on their Committee Liaison Officer and legal office for assistance. Officials of the Office of the Secretary may call on OMO, and on the Assistant General Counsel/Administration (AGC). All charters must clear the AGC, OMO and the Office of the Secretary (responsible for membership clearance). OMO shall be responsible for obtaining these clearances.

.3 *Charter Provisions.* Each charter must contain the information called for below and illustrated in Exhibit 5.

- a. The committee's official title.
- b. A statement (in the first paragraph) that the committee is (1) being established in the public interest in connection with the performance of duties imposed on the Department by law, or (2) being established in implementation of a higher authority such as a statute or Executive Order.

- d. The title of the official to whom the committee will report.
- e. The name of the operating unit or Departmental office responsible for providing necessary staff support.
- f. The Commerce officials, by title, authorized to appoint the members (normally the Secretary or a Secretarial Officer), the tenure of membership and/or statement that members shall serve at the discretion of the appointing official.
- g. The planned number of members and an explanation of how the membership will assure a balanced representation of interests and viewpoints vis-a-vis the committee's purpose.
- h. The planned chairperson (by position title if a Federal employee) and/or method of selection, and tenure.
- i. A statement as to whether members' travel expenses and per diem are to be provided, whether they shall receive compensation, and conditions which pertain. (See also Chapter Three for specifics on policy and guidance for pay.)
- j. The committee's total estimated annual operating costs in dollars and the estimated person-years of support required. The estimated person-years should be the total time of all officers and employees who will spend at least ten percent of their time in support of the committee. (NOTE: Include the dollar cost of staff support within the total estimate for the committee's annual operating costs. Travel expenses and printing are examples of other costs.)
- k. A statement that the committee shall function solely in an advisory capacity, and in accordance with the provisions of the FACA. (NOTE: In rare cases, an advisory committee might be given operational functions, in addition to its advisory role. Such cases must always be based on specific statutory authority or Presidential directive.)
- l. The identification of any planned subcommittees, or a provision that subgroups may be established only in accordance with provisions of this Handbook and only if subgroup members are to be selected from the parent committee. (NOTE: If a subcommittee is to have any member who is not a member of the parent committee, it must be *separately* established and chartered.)
- m. The estimated number and frequency of meetings.
- n. Membership security clearance requirements if the committee is to deal with or receive any security classified information.
- o. The estimated period of time needed for the committee to carry out its mission or a specific target date for completion of its work. This duration provision cannot extend beyond two years from the time the charter is "filed". (NOTE: For committees established by law, the duration period must coincide in month and date with the month and date the law was enacted.)

Section B—Establishment

- .1 *Authority.* An advisory committee may be established in one of four ways:
 - a. by Presidential Executive Order;
 - b. by law where the Congress has specifically directed the President or an agency to establish the committee;
 - c. by law where the Congress authorizes but does not direct establishment of the committee; or
 - d. by the Secretary.
- .2 *Alternatives.* The following must be considered before the establishment of a new committee is proposed:
 - a. the existence of another committee, a component of Commerce or another Federal agency which could fulfill the need;
 - b. the solicitation of advice and information from the general or constituent public to satisfy the need for public input through a variety of channels such as notices in the Federal Register, notices in the form of news releases to appropriate professional journals and industry publications, etc.; or

c. the feasibility of conducting Commerce-sponsored symposia, public meetings or conferences.

.3 *Proposing Establishment of a Committee.* Any Secretarial Officer, operating unit head, or Commerce official who reports directly to the Secretary may propose the establishment of an advisory committee.

The proposal package must include the following documents (see Exhibits 6 and 15).

- a. An Abstract of Secretarial Correspondence (Form CD-183) requesting approval of the establishment of the committee. The Abstract must:
 - (1) describe the need for and planned use of the committee;
 - (2) explain why the functions of the committee cannot be performed by either an existing Commerce organization or committee, or other Federal committee;
 - (3) describe the plan for assuring a balanced committee membership in terms of the points of view to be represented vis-a-vis the function to be performed;
 - (4) provide an estimate of the cost involved, and describe how such costs will be financed;
 - (5) specify the Commerce organization and official to be responsible for the committee; and
 - (6) designate by position title the Commerce official who shall serve as Designated Federal Officer.
- b. A charter for the committee, prepared in accordance with Section A of this chapter;
- c. For committees established by Secretarial authority or by law where Congress authorizes but does not direct the establishment of the committee, a letter prepared for the Assistant Secretary for Administration's signature, addressed to the Committee Management Secretariat, General Services Administration. The letter should request consultation on the establishment of the committee and include copies of the Abstract and charter as enclosures (see Exhibit 6).
- d. For committees established by Secretarial authority or by law where Congress authorizes, but does not direct, the establishment of the committee, a copy of the notice of establishment to be published in the *Federal Register* (see paragraph .5 below on "Notifying the Public").

.4 *Clearance with OMO.* Prior to transmitting the proposal to the Secretary for approval, the proposal package shall be delivered to OMO for initial review. After review by OMO, the package shall be submitted to the Secretary through the originating office's established official channels.

Following Secretarial approval of the proposal, the entire Abstract package is returned to OMO. If applicable, OMO shall forward the charter to GSA for consultation. GSA's review and response usually takes 15 days.

.5 *Notifying the Public.* After consultation with GSA, OMO shall notify the operating unit to have the Notice of Establishment published in the *Federal Register*. The notice must state that creation of the committee is in the public interest in connection with the performance of duties imposed on the Department by law. In addition, the notice must describe the nature and purpose of the committee. After publication, 15 days must elapse before the charter can be filed with the Congressional oversight committees. In rare cases GSA may authorize a shorter waiting period.

The Federal Register notice requirement does not apply to statutorily created committees.

.6 *Charter filing requirements.* After the 15-day public notice has been given and the charter has been signed by the Secretary or the Assistant Secretary for Administration, OMO will file a copy of the charter with the following:

- a. the standing committees of the Senate and House of Representatives having legislative jurisdiction over the Department, and
- b. the Library of Congress, Exchange and Gift Division, Federal Documents Sections, Federal Advisory Committee Desk, Washington, D.C. 20540.

The date of filing the copy of the charter with the Congressional oversight committees constitutes the date of establishment for the committee.

OMO will send a copy of the charter, along with the transmittal letters to the Senate, House of Representatives and the Library of Congress, to the Committee Management Secretariat at the GSA. OMO shall also send a copy of the filed charter to OGC and the appropriate operating unit's Committee Liaison Officer.

Section C—Renewals

By law, a committee with an expired charter cannot operate. The proposal for continuation of an existing committee must be received in OMO at least eight weeks before its termination date. The charter renewal package must contain a transmittal addressed to the Assistant Secretary for Administration, signed by the head or deputy of the operating unit and the following attachments (see Exhibit 7).

.1 *Committee established by Secretarial authority.* The renewal request should include the following.

a. A justification for renewal which includes the following.

- (1) A summary of the committee's accomplishments and activities for the period covered by the extant charter. Include the number of meetings held, the titles and dates of any reports (not minutes) issued, an accounting of the committee's significant recommendations and their disposition, and the annual cost of operations.
- (2) A statement that renewal is essential to the conduct of agency business and in the public interest and the reasons therefore.
- (3) A description of the plan for attaining (or maintaining, as appropriate) a balanced membership on the committee.
- (4) An explanation of why the committee's functions cannot be performed by the Department or by an existing advisory committee or Federal agency.
- (5) An estimated target date for the committee's completion of its functions.

b. A proposed renewal charter. (See charter provisions in Chapter Two, Section A.)

c. A request for continuation letter addressed to the Committee Management Secretariat, General Services Administration. The justification and charter referenced above shall be included as attachments to this letter.

d. A copy of a renewal notice to be published in the *Federal Register*. An advance notice is not required for committee renewals. The notice may be published concurrently with the filing of the charter.

.2 *Statutory committees.* Statutory committees do not require consultation with GSA for renewal. The renewal request for statutory committees should include the following.

a. A justification for renewal which includes the following.

- (1) A summary of the committee's accomplishments and activities for the period covered by the extant charter. Include the number of meetings held, the titles and dates of any reports (not minutes) issued, an accounting of the committee's significant recommendations and their disposition, and the annual cost of operations.
- (2) A statement that renewal is essential to the conduct of agency business and in the public interest and the reasons therefore.
- (3) A description of the plan for attaining (or maintaining, as appropriate) a balance membership on the committee.
- (4) An explanation of why the committee's functions cannot be performed by the Department or by an existing advisory committee or Federal agency.
- (5) An estimated target date for the committee's completion of its functions.

b. A proposed renewal charter. (See charter provisions in Chapter Two, Section A.)

.3 *Renewal Limitation.* Committee charters may not be renewed for more than two years.

.4 *Clearance and Approval Procedures.* The clearance and procedures for a committee renewal are the same as those for the establishment of a new committee described in Chapter Two, Section B, except, the

15-day advance notice requirement does not apply to committee renewals. Committee renewal notices may be published concurrently with the filing of the charter.

.5 *Statutory Prohibition.* Section 14 of the FACA prohibits any form of activity by a committee if the committee's charter has expired.

Section D—Charter Amendments

An advisory committee charter may be amended when the existing charter no longer accurately reflects the objectives or functions of the committee.

To amend a charter, the head of the operating unit shall submit a memorandum to the Assistant Secretary for Administration requesting an amendment to the charter. The amendment to the charter should accompany the memorandum (see Exhibit 8).

.1 *Minor amendments.* Minor amendments to a charter include changes to the name of the committee, the estimated number or frequency of meetings, or number of members. Minor amendments to a charter do not require GSA consultation. OMO will be responsible for clearing the proposed amendment with the Office of the General Counsel and the Office of the Secretary responsible for membership clearance.

After the amendment has been signed by the Assistant Secretary for Administration, OMO shall file a copy of the amendment with the standing Congressional committees having legislative jurisdiction over the Department, the Library of Congress, and the GSA.

.2 *Major amendments.* Major amendments to a charter include changes to the objectives or the composition of the committee. Major amendments to a charter must be sent to GSA for consultation prior to signature by the Assistant Secretary. Prior to consultation with GSA, OMO will clear the proposed amendment with the Office of the General Counsel and the Office of the Secretary responsible for membership clearance.

The GSA Committee Management Secretariat will review the proposed amendment and notify the Department of its views within 15 days. After consultation with GSA, the amendment shall be signed and filed with the standing Congressional committees, the Library of Congress and the GSA.

Section E—Non-Government Formed Committees

The Secretary may approve the use of a non-Government formed group as a Commerce advisory committee. Such group may be either an existing body or a committee established by a non-Federal organization at the request of the Secretary. Generally, neither the committee nor a sponsoring organization should be officially contacted until the Secretary has approved the proposal and GSA has been consulted. A letter to the group or its sponsoring organization shall then be submitted to the Secretary for signature together with a copy of the charter. If the group agrees to the charter without any substantive changes, public notice in the *Federal Register* shall follow.

The membership and chairperson provisions of the charter should reflect established characteristics and size of the group. If available, a listing of the names and affiliations of the existing group members should be attached to the proposal package. The establishment statement in the first paragraph of the charter shall be modified appropriately, and provisions regarding appointment and tenure of the members shall be excluded. The charter should clearly reflect that 1) the group shall be considered an advisory committee only during the period or for the unique purpose that it is being utilized by the Department, and 2) the group shall comply with the provisions of FACA when it is being used by the Department.

Section F—Subcommittees

Subcommittees that function independently of the parent advisory committee must be chartered as separate advisory committees as specified in Chapter Two, Section A of this Part.

Subcommittees that do not function independently of the parent committee need not be formally chartered. The following conditions must exist for a subcommittee to be exempt from the chartering requirement.

- The parent committee's charter must authorize the use of subcommittee.
- All members of the subcommittee must be drawn from the membership of the parent committee.
- The subcommittee must not function independently of the parent committee. Recommendations made by the subcommittee must be for consideration by the parent committee.

The establishment of a subcommittee that meets the above criteria shall be approved in writing by the Commerce official to whom the parent committee reports as specified in the parent committee's charter. The original copy of the written approval shall be delivered to the OMO and placed on file in the Department's Committee Control File *before* the subcommittee can convene or engage in any activity.

The activities and operations of a subcommittee are subject to the same rules and conditions that apply to the chartered parent committee as set forth in this Handbook.

Section G—Termination

.1 *Committees established by Secretarial authority.* A committee established by Secretarial authority is automatically terminated once the committee's charter has expired.

Prior to the charter expiration date, the operating unit shall submit to OMO a memorandum advising that the committee will be terminated. The memorandum shall state the reason(s) for the committee's termination, and include information as to the availability of any final reports or recommendations prepared by the committee.

The operating unit shall prepare letters of appreciation to committee members for services rendered and be submit them for signature of the official who appointed the members.

.2 *Statutory Committees.* A statutorily created advisory committee shall terminate two years after its establishment unless its duration has been otherwise provided for by law. When a committee's duration is not specifically provided by law, the committee will automatically terminate upon the expiration of its charter in the absence of an expressed Congressional intent to continue the committee. Examples of Congressional intent to continue a committee include authorization and/or appropriation of monies to fund the committee's activities.

The operating unit sponsoring the statutory committee shall be responsible for notifying OMO in writing that the committee is being terminated. The memorandum must also include information on the availability of any final reports or recommendations prepared by the committee.

The operating unit shall also prepare letters of appreciation to committee members for services rendered and submit them for signature of the official who appointed the members.

.3 *Notifying GSA.* OMO shall be responsible for notifying the GSA Committee Management Secretariat of the date of an advisory committee termination.

Section H—Meetings

.1 *Public Notice.* A notice of each committee meeting, whether it is to be open or closed to the public, must be published in the *Federal Register* at least 15 days prior to the meeting date (see Exhibit 9). Compliance with this requirement is routinely scrutinized (and violations questioned) by Congressional oversight committees, GSA and private sector organizations.

A shorter notice period may be provided in emergency situations but the reasons for the emergency exception shall be included in such situations. (*NOTE:* An "administrative oversight" *cannot* be used as a reason for disallowing the required 15 day public notice period.)

a. Each notice must include the following:

- (1) the name of the committee, as chartered;
- (2) the time, place and purpose of the meeting;
- (3) the agenda or a complete summary thereof;
- (4) a statement as to whether the meeting is open, closed or partially closed to public attendance;
- (5) *if open*, pertinent information as to seating capacity, and an explanation of any conditions governing public participation;

- (6) if closed, state whether the meeting is wholly or partially closed and give specific reasons for closure, citing the applicable statutory exemption authorizing the closure. Identify the Notice of Determination by date and signature authority (see Section H, paragraph .3 of this chapter for further guidance.);
 - (7) a statement that any member of the public may submit written comments concerning the committee's affairs at any time before and after the meeting;
 - (8) a statement describing the availability of copies of minutes of the meetings (or of open portion, if partially closed) within 30 days of the meeting; and
 - (9) the name, address and telephone number of a Commerce official to whom the public may address any inquiries.
- b. The notice should be prepared by the sponsoring office and forwarded to the *Federal Register* in accordance with the provisions of Department Administrative Order 205-11, "Publishing Documents in the *Federal Register*." A copy of the notice shall be delivered concurrently to the Departmental Office of Public Affairs. If the meeting is to be held in the Herbert C. Hoover Building, a copy of the notice shall be furnished concurrently to the Departmental Office of Investigations and Security.
- c. If the date, time or location of a meeting changes from that previously announced in the *Federal Register*, an appropriate notice must be published promptly. The amended notice should reference the volume, page number, and date of the previous *Federal Register* notice.

.2 Open Meetings.

- a. *Public Attendance and Participation.* Public attendance at open meetings shall not be constrained in any unreasonable manner. There is no legal basis, for example, for requiring members of the public to call or write in advance for any "reservation", or to provide their names, addresses, or affiliations if they do not desire to do so. Attendance shall be on a first-come, first-serve basis in so far as seating is concerned, up to the reasonable and safe capacity of the meeting room. Public participation shall be allowed as follows.
- (1) *Written.* The public shall be permitted to file written statements with any advisory committee at any time before or after a meeting. This submission of written statements by the public is a statutory right which cannot be administratively hampered by arbitrary conditions of length, format, number of copies, typography, etc.
 - (2) *Oral.* Every effort shall be made to set aside a portion of every meeting for public participation. To the extent that the meeting time and agenda permits, interested persons shall be allowed to present oral statements or to participate in the discussions. Public participation shall be subject to reasonable rules or procedures as may be established by the Department official to whom the committee reports or by a person whom that official authorizes (e.g., the "designated" Commerce person or the committee chairperson).
- b. *Open Meeting Standards.* In connection with public attendance and public participation, the following standards shall apply.
- (1) The meeting shall be scheduled during normal business hours. Reasons for any exception shall be clearly explained in the public notice of the meeting.
 - (2) The size of the meeting room shall be reasonable in relation to the size of the committee, to the number of people who have attended or sought to attend previous meetings, to the number who can be expected to attend the particular meeting—judging from likely public interest in the agenda, and to the resources and facilities available to the Department and the committee.
 - (3) The meeting shall be held at a reasonable time, and at a place which is accessible to and generally convenient for the public. For example, meetings shall not be scheduled at remote locations or in buildings which are not freely open to the public.
 - (4) For the benefit of attendees from the general public and media, rosters which list the names and affiliations of the committee's members shall be available at the door to the meeting room.
- c. *News Media Coverage of Meetings.* As set forth in Department Administrative Order 219-2, "Release of News and Clearance of Speeches", it is Commerce policy to allow the news media direct

access to qualified news sources within the Department and to allow as free a flow of information as possible within orderly administrative limits.

- (1) Media representatives attending and reporting on open (and the open portion of partially closed) committee meetings are at liberty to use tape recorders, cameras, and electronic equipment for broadcast purposes. The use of such equipment, however, shall not interfere with the orderly conduct of the meeting. To preclude any disruption, news media personnel shall be encouraged to position all equipment before the meeting is scheduled to commence and to defer removal until the adjournment of the meeting or any ample intermission period.
- (2) Contacts with the media for coverage of meetings shall be coordinated with the concerned operating unit's public affairs office or with the Departmental Office of Public Affairs. A public information specialist from the appropriate office shall assist and facilitate the coverage of arrangements.

.3 Closed and Partially Closed Meetings.

a. *Legal Basis for Closure.* The FACA as amended provides that the requirements of public accessibility need not apply to a meeting which the Secretary formally determines will be concerned with matters listed in subsection (c) of the Government in Sunshine Act, 5 U.S.C. 552b(c). At Commerce, the responsibility to make this determination has been further delegated to the Assistant Secretary for Administration, subject to the concurrence of the General Counsel. Subsection(c) of the Government in Sunshine Act, 5. U.S.C. 552b(c) applies to any meeting or portion of a meeting which is likely to:

- (1) disclose matters that are (A) specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive Order;
- (2) relate solely to the internal personnel rules and practices of an agency;
- (3) disclose matters specifically exempted from disclosure by statute (other than section 552 of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (4) disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (5) involve accusing any person of a crime or formally censuring any person;
- (6) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- (7) disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel.
- (8) disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;
- (9) disclose information the premature disclosure of which would (A) in the case of the agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution; or (B) in the case of an agency, be likely to significantly frustrate implementation of a proposed agency action, except that subparagraph (B) shall apply in any instance where the agency has already disclosed to the

public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

- (10) specifically concern the agency's issuance of a subpoena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in section 554 of this title or otherwise involving a determination on the record after opportunity for a hearing.

(NOTE: The above are available exemptions only, they are not mandatory. As such, they should be waived whenever practicable in order to satisfy the basic thrust of the law which is openness in government.)

b. *Guidelines for Closing a Meeting.*

- (1) Based on experience to date, the exemptions most likely to be used by Department of Commerce advisory committees are (c) (1), (4), and (6). Closed meetings have also been approved on the basis of (c) (2) and (9) (B).
- (2) If a meeting or portion of a meeting has the express purpose of discussing a document or a matter which would fall under one of the exemptions, the meeting or portion may be closed.
- (3) The justification for using (9) (B) shall explain, not merely state, how the discussions would *significantly* frustrate implementation of the proposed agency action (without, of course, disclosing the specific proposed actions).
- (4) Committees which have a legitimate need for frequent closed meetings may submit a request for one Notice of Determination to cover a series of meetings. As a general rule, the series of meetings shall cover the same topic(s), be closed on the same statutory basis(es) and not extend over the charter's duration.

c. *Procedures When Proposing Closure.* The closure of a meeting or portion of a meeting requires early planning, formal documentation, and specific clearances and approval.

- (1) *Transmittal Request.* The closure request shall be in the form of a brief transmittal memorandum signed by the head or deputy of the operating unit and addressed to the Assistant Secretary for Administration. The request shall be submitted at least 45 days prior to the scheduled meeting date, with concurrent delivery of an information package to the Departmental Office of Public Affairs. It must explain in detail the need for the closed portion and include a formal Notice of Determination (see Exhibit 10) which provides a statement of the reason for closure, and identifies the pertinent exemption(s) from among the ten listed in 5 U.S.C. 552b(c) quoted in paragraph .3a of this Section.
- (2) *Clearances.* The request package shall be delivered to OMO for review. OMO shall be responsible for forwarding the Notice of Determination to OGC for legal clearance and signature. After clearance by OGC, OMO shall submit the Notice of Determination for signature to the Assistant Secretary for Administration. When the notice has been signed, OMO shall inform the requesting organization and provide a copy of the signed Notice of Determination. Closed or partially closed meetings shall not be scheduled by the sponsoring office until notification from OMO that the notice has been signed. The signed original of the Notice of Determination shall be retained in the Department Committee Control file, OMO.

d. *Conduct of Closed Meetings.*

- (1) When a meeting is closed, members shall not discuss or disclose the matters discussed, except with other members and committee staff personnel.
- (2) If only part of a meeting is closed, the agenda items shall be arranged to facilitate public attendance at the open portion, e.g., the closed session should be either the first or the last agenda item.
- (3) When a meeting is partially closed, the agenda shall be structured to minimize the amount of time needed for the closed session, (e.g., application can be discussed generally in open sessions, and individual applicants can be discussed specifically in closed sessions).

- e. *Audit of Closed Meetings.* The appropriateness of any closed meeting shall be subject to audit as directed by the Assistant Secretary for Administration. This review may consist of an analysis of the minutes of the meetings in relation to the Notice of Determination and agenda. If the audit indicates improper closure, the responsible organization shall advise the public through the *Federal Register* that the minutes of the meeting shall be available for public inspection and copying.
- f. *Report of Closed Meeting Activities.* Section 10(d) of the FACA requires periodic reporting of all closed meeting activities. (See Chapter Four, Section B for details.)
- .4 *Quorum.* Unless a quorum is specified in the committee's charter, there is no minimum number of committee members who must be present in order to conduct business.

CHAPTER THREE—MEMBERSHIP

Section A—Composition

.1 *Balanced Representation.* The composition of an advisory committee requires careful consideration and planning. The Act prescribes that the composition be fairly balanced in terms of viewpoints represented and the functions to be performed. For purposes of attaining balance, the committee shall consider for membership interested persons and/or groups with professional or personal qualifications or experience to contribute to the functions and tasks to be performed.

The Act also prescribes that the advice and recommendations of a committee shall not be inappropriately influenced by the appointing authority or by any special interest. Depending on the committee's mission, it is the Department's policy that balanced membership also include the interest of the geographic regions of the country (North, South, East, and West); the diverse sectors of our society (business and industry, science, academia, the public at large, particularly consumers); and the size of the firm or institution represented (big, medium and small).

Membership composition shall reflect these several requirements where possible. It is also the Department's policy that committees shall have a balanced membership in terms of minority, female and consumer representation.

Membership for an advisory committee shall generally be limited to the fewest necessary to accomplish the committee's objectives.

Section B—Membership

.1 *Nominating Members.* The official who proposes the establishment of a committee to the Secretary shall normally recommend its members, unless the proposed charter prescribes otherwise. This may be done when the proposal package is submitted or at any point thereafter. Arrangements for the nomination of members shall be jointly developed by the operating unit having responsibility for the committee and the official authorized to appoint the members. The procedures and clearance requirements prescribed here shall apply.

.2 *Members as Employees.* In most instances, advisory committee members from the private sector shall not be considered Federal employees (See DAO 202-311). In rare instances, however, a member from the private sector may serve in an employer-employee relationship, and thus be considered a Federal government employee. Most likely, such a member would be considered a "special Government employee."

- a. Factors which may influence the decision on whether an employer-employee relation exists include:
- (1) whether the member is engaged in the performance of a Federal function;
 - (2) whether the member is subject to the supervision of a Federal official while engaged in the performance of his/her duties;
 - (3) whether the member is paid for services provided;
 - (4) whether the member serves in an independent capacity, as one whose advice is obtained because of his/her individual expertise;

- (5) whether the member serves in a representative capacity, as one who is a spokesperson for a nongovernmental group; and
- (6) whether the member is in a position to act as a spokesperson for the United States or a Federal Government agency (for example, at an international conference).

(NOTE: The fact that a member receives no compensation and no travel and per diem expenses does not mean that he/she is not an employee. However, receipt of compensation most surely does mean that the member is an employee.)

- b. If it is determined that an employer-employee relationship exists, the advisory committee member shall be advised of:
 - (1) applicable conflict of interest and financial disclosure laws;
 - (2) political activity restrictions; and
 - (3) fringe benefits, if any, to which he/she maybe entitled.
- c. Consultation with operating unit legal and personnel offices about any potential "employer-employee" situation is recommended at the earliest possible date. (See DAO 202-304, "Employment of Individual Experts and Consultants")

.3 *Members versus Alternates.* Advisory committee members, serving in an individual capacity, are selected and cleared based on their individual qualifications. As a matter of policy, therefore, alternates shall not be designated to serve in a member's place or to represent a member in meetings or other committee activities.

Organization members or Federal agency members of a committee recommending or designating their representatives to serve on a committee in a representative capacity may designate alternate members. Alternates may be designated if it is acceptable to the head of the sponsoring operating unit and the committee's charter does not preclude such actions. In such cases, the alternates must obtain the same level of administrative and security clearances required for regular committee members.

Section C—Member Clearances

It is the responsibility of the sponsoring operating unit to ensure that all required clearances are received before a prospective committee member is invited to serve.

.1 *Administrative Clearance.* A Departmental administrative clearance is required before any non-Federal person can be appointed to a committee. The Office of the Secretary is responsible for all matters relating to the administrative clearance of members. For each prospective nominee, a complete resume shall be submitted to the Office of the Secretary. If a security clearance or security assurance is also required, a copy of the completed security forms shall accompany the resume (see paragraphs below on "Security Clearance" and Security Assurance"). Administrative clearance shall be obtained prior to any official contact by the sponsoring organization with the prospective appointee concerning committee activities or issues. After clearance has been obtained, the Office of the Secretary shall provide the operating unit with written verification.

.2 *Security Clearance.* An appropriate level security clearance is required for any person under consideration for membership on a committee which is chartered to advise on classified matters or which will be dealing with any classified materials. The requesting office shall submit to the Office of Security (O/SY), a memorandum explaining the need for the security check and the name of the committee. The memorandum shall be accompanied by completed forms OPM-1474 (Agency Request for Reimbursable OPM Personal Investigation), SF-85 (Data for Nonsensitive or Noncritical Sensitive Position), and FD-258 (Fingerprint card with OPM's designation in the ORI block) for each member nominee. There will be a \$8.00 per member charge made by the Office of Personnel Management for conducting the required investigation. (See Exhibit 11 for security forms.)

.3 *Security Assurance.* Security assurances may be requested by the sponsoring office when security clearance is not required but the sponsoring office feels the sensitivity of the mission of the committee requires a more detailed clearance of the members over and above the administrative clearance. Security assurances are also conducted by O/SY. The procedure for requesting a security assurance is the same as outlined in the preceding paragraph. It is recommended that a security assurance be

conducted, as a minimum, for all committee members. Both security clearance and security assurances shall be valid for five years from the date granted, or until a break in committee membership occurs. If either of the preceding conditions occur, the security clearance or assurance shall be conducted again.

.4 *Privacy Act.* The Privacy Act directs that an agency obtain personal information directly from the individual concerned to the maximum extent practicable. This provision, combined with a preference to avoid undue embarrassment to either the Department or the individual, suggests that communication about prospective nominees be handled with considerable tact and discretion.

.5 *Nominations by Outside Organizations.* On occasion it may be desirable to have a professional society, association, or other organization nominate one or more of its members to serve on a committee. Approval of the appointing officer is required prior to any official contact with the organization. Unless the committee's charter prescribes otherwise, arrangements shall be worked out with the outside organization which will enable the appointing officer to accept or reject the nominee without embarrassment to the Department, the organization, or the individual. Administrative clearance of nominees is required before they shall be invited to serve.

.6 *Waiver of Administrative Clearance Requirement.* Administrative clearance may be waived under certain conditions shown below. Waiver requests shall be submitted in memorandum form addressed to the Office of the Secretary. The memorandum should state the reason(s) for the waiver of clearance requirements.

- a. *One-time Meeting.* If a committee is established for one meeting only, a request for waiver of clearance shall be considered.
- b. *Utilized Committee.* When a non-Government formed group is to be used as an advisory committee, Departmental clearance of its members may not be required.
- c. *Organizational Representative.* Occasionally, it may be desirable to have an organization represented on a committee. The desired representative may be specified officer of the organization (e.g., its president, or executive director) or someone designated by the organization. Since the individual is to serve solely in a representative capacity and is not designated by the Secretary or a Secretarial Officer, Departmental clearance may not be required.

Approval of the Secretary is required before contacting any organization regarding such representation. If approved, the subsequent invitation to the organization shall make clear the Department's desire to retain its clearance prerogative. Arrangements shall be worked out that will allow the Secretary or the appointing official to accept or reject a nomination without embarrassment to the Department, the organization, or the individual involved. For example, it may be agreed that the organization will submit the names of three of its members as nominees, thus permitting the Department to clear and select one of the nominees to serve on the committee. Or conversely, the Department may identify several members of the organization, any of whom would be an acceptable representative, and permit the organization to make the selection.

- d. *Special Exception.* Under special circumstances, the official proposing the establishment of a committee or the selection of its members may request waiver of the clearance requirement. If recommended in connection with the establishment of a committee, the waiver request (with adequate justification) shall be included in the proposal Abstract. Waiver requests submitted at other times shall be in memorandum form addressed to the Office of the Secretary.

Section D—Appointment Procedures

After a committee's charter is filed and appropriate clearances have been received to proceed with appointments, the operating unit shall forward membership recommendation(s) to the appointing official with the following:

- a copy of the written clearance verification, and
- a letter of invitation or appointment to the nominee with a copy of the filed charter enclosed.

Acceptance of the invitation constitutes the person's appointment to the committee. The person's reply (whether acceptance or rejection) shall be retained in the files of the Designated Federal Officer. The designation of a full-time Federal employee to serve on an advisory committee shall ordinarily come from the employing agency or office. A public member who serves on a given committee shall be under

an employer-employee relationship and must be appointed to an official position. The appropriate operating unit's Personnel Office will assist in completing this action.

Section E—Membership Vacancies

Whenever a vacancy occurs in an advisory committee, the organization's Committee Liaison Officer shall promptly inform the Office of the Secretary.

Section F—Pay and Expense

When extending invitations to individuals to serve as members of Commerce advisory committees, it shall be explained that it is the policy of the Department not to pay members for their services. The invitation represents an opportunity for the addressee to render a public service in an advisory capacity on a matter in which the individual is considered to be a specialist or an authority. The exception to this policy is when a committee established by law specifies pay and/or expense arrangements in the authorizing statute. Also, if a committee member is determined to be serving in an employer-employee relationship, that member may be entitled to pay.

.1 Pay for Members.

- a. *Eligibility.* Pay shall be provided the members of an advisory committee if authorized by the committee's establishing authority or, in some circumstances, if service is in an employer-employee relationship.
- b. *Determination.* The pay rate shall be established by or cleared with the operating unit Personnel Officer. In determining an appropriate rate of pay, consideration shall be given to the significance, scope and technical complexity of the committee's purpose and to the qualifications required of the members.

A committee member whose service is rendered under the employer-employee relationship as explained in DAO 202-304, "Employment of Individual Experts and Consultants," may be compensated at a rate of pay not to exceed that fixed for the position in accordance with law by the appropriate Personnel Officer.

- c. *Amount.* For any one committee, member's pay (if authorized but not specified) shall not be higher than the daily equivalent of the maximum salary rate for GS-15, unless the Secretary of Commerce personally determines that a higher rate is both justified and necessary. If the Secretary determines that the higher rate shall apply, the member's pay shall not exceed the daily equivalent of a rate for GS-18, as provided in 5 U.S.C. 5332. This determination must be personally reviewed and reauthorized by the Secretary annually.

When a rate of pay higher than GS-15 is proposed, the Designated Federal Officer is responsible for ensuring that the appropriate written authorization is obtained. OMO shall be consulted on procedures for obtaining the Secretary's approval for the higher pay rate.

.2 Pay for Staff.

- a. *Eligibility.* A member of the staff of an advisory committee is entitled to the rate of pay fixed pursuant to law for that official position. Employees whose regular duties include service as a staff member of a committee, or who are detailed temporarily to serve as a committee staff member are entitled to the pay of their regular (official) positions.
- b. *Amount.* No committee staff position may be established exclusively for such purpose with a rate of pay exceeding the daily equivalent of the maximum rate for GS-15 unless the Assistant Secretary for Administration determines, under the applicable job classification system, that a higher rate shall be appropriate. Such determination must be submitted to, and reviewed and reauthorized by the Assistant Secretary annually.

.3 Pay for Consultants. The appropriate operating unit Personnel Officer shall fix the pay of the consultant to an advisory committee after giving consideration to the qualifications required of the consultant and to the significance, scope, and technical complexity of the work. The rate of pay shall not exceed the maximum rate of pay which the Department is authorized by law to pay. Hiring of consultants shall be in accordance with applicable statutes, regulations and Executive Orders. (See also DAO 202-304, "Employment of Individual Experts and Consultants.")

.4 *Reimbursable Travel Expenses.* When specified in the committee's charter, the members and staff of a committee shall, upon request, be allowed travel expenses while engaged in the performance of their duties away from their homes or regular places of business, including per diem or actual expenses, as authorized by 5 U.S.C. 5701 *et. seq.* and applicable Federal travel regulations.

CHAPTER FOUR—RECORDS AND REPORTS

Section A—Records

.1 *Departmental Committee Control File.* The Director, OMO, shall maintain a Departmental Committee Control File which shall include the following records for each Commerce advisory committee:

- a. original establishment proposal, and any original renewal proposals;
- b. original charter and any original amendments or revisions;
- c. copies of letters which filed the charter with the Congressional oversight committees as well as any which filed amendments or revisions;
- d. copy of Notice of Establishment published in the *Federal Register* for committees established by agency authority;
- e. the original written approval for the establishment of any subcommittee comprised solely of parent committee members;
- f. original Notice(s) of Determination with copy of the Notice of Closed Meeting to be published in the *Federal Register*;
- g. a copy of the committee's annual report; and
- h. a copy of the committee's closed meeting reports, if any.

.2 *Committee Liaison Officer File.* Each Committee Liaison Officer shall maintain, at a minimum, the following records for each committee for which his/her organization is responsible:

- a. copies of records listed in preceding paragraph .1;
- b. copies of notices of all meetings, as published in the *Federal Register*;
- c. name, position, address, and phone number of the Designated Federal Officer; and
- d. current membership roster.

.3 *Designated Federal Officer File.* The Designated Federal Officer of each committee shall maintain, at a minimum, the following records and reports:

- a. copies of records listed in preceding paragraphs .1 and .2;
- b. detailed minutes of each meeting, prepared no later than thirty days from the date of the meeting, which includes as a minimum:
 - (1) time, date and place of meeting,
 - (2) a list of the following persons who were present: committee members and staff, agency employees and members of the public who presented oral or written statements,
 - (3) an estimated number of other members of the public present,
 - (4) an accurate description of each subject discussed and the resolution, if any, made by the committee concerning the subject,
 - (5) copies of each report or other documents received or issued by the committee, and
 - (6) a certification by the chairperson as to the accuracy of the minutes.
- c. copies of all records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda, or other documents that were made available to or prepared for or by the committee;

- d. copies of letters of appointment to committee members; and
- e. appropriate data or documents to support the major provisions of the annual report and the closed meeting report.

All records and reports shall be made available to the public on request, for inspection and copying, except that minutes and papers pertaining to any closed portion of a meeting may be exempted from disclosure under the provisions of the Freedom of Information Act (see DAO 205-12).

.4 *Retention Period.* The period of retention and ultimate disposition of these records shall conform to the organization's approved Records Control Schedule (see DAO 205-1, "Records and Other Documents Disposition Management Program").

.5 *Public Access.* In keeping with the primary thrust and specific provisions of the Freedom of Information Act, Government in Sunshine Act, and the public accessibility goals of FACA, general information and records on committees of the Department shall normally be made readily available in response to public requests. The provisions of Department Administrative Order 205-12 shall apply to such requests.

Section B—Reviews and Reports

.1 *Annual Committee Report.* This report is required by law and shall be prepared after the close of the fiscal year and submitted to GSA. The GSA shall use the information submitted to assist the President in preparing and submitting a fiscal year report to Congress. GSA shall annually issue instructions to agencies regarding reporting requirements, procedures and submission dates. OMO shall serve as a central point for coordination for the annual report and shall be responsible for informing the Committee Liaison Officers of GSA's requirements. OMO shall submit the Department's consolidated report to GSA. Committee Liaison Officers shall be responsible for obtaining accurate and complete individual committee reports from the Designated Federal Officers and forwarding them to OMO in a timely manner. Designated Federal Officers shall be responsible for completing the individual committee reports in an accurate and timely manner.

.2 *Annual Report on Closed Meeting Activities.* Section 10(d) of FACA requires each committee that held a closed or partially closed meeting during the year issue a report of the activities which took place behind closed doors. This report shall be prepared as explained in Exhibit 12. It shall be submitted to the Assistant Secretary for Administration no later than March 30 after the end of the fiscal year. Six to eight weeks prior to the due date of this report, OMO shall send out a call to all Committee Liaison Officers for their operating unit's closed meeting reports. Written negative responses to this call shall be required.

Copies of the report on closed meeting activities shall be filed with the Library of Congress and the Department's Central Reference and Records Inspection Facility by OMO. OMO shall announce the public availability of this report in the *Federal Register* within one week of its filing with the Library of Congress.

.3 *Committee Issued Reports.* Whatever their form or substance, public reports issued by individual committees (together with any related background papers prepared by consultants) shall be filed with the Library of Congress for public inspection and use, as required by Section 13 of FACA. These submissions to the Library of Congress shall be made within ten days of the date the original is delivered to the appropriate Commerce official. This requirement does not pertain either to minutes of meetings or to any of the other reports that are covered in the preceding paragraphs of this section.

- a. The reports shall be transmitted to the address shown below. Eight copies of the report shall be provided. One information copy of the transmittal and report shall concurrently be forwarded to OMO, and another to the Office of Public Affairs. Further distribution may be made as desired.

Library of Congress
Federal Advisory Committee Desk
Exchange and Gift Division
Federal Documents Section
Washington, D.C. 20540

b. Unless the head of the operating unit or office prescribes otherwise, this statutory filing of committee-issued reports shall be a responsibility of the Designated Federal Officer.

.4 Presidential Committee Special Requirements. Section 6(b) of the FACA imposes a special requirement on any Presidential advisory committee under the Department's purview.

Within one year after a Presidential advisory committee has submitted a public report to the President, the President or his delegate shall prepare a follow-up report to the Congress detailing the disposition of the committee's recommendations.

Unless otherwise prescribed by law or Presidential directive, it shall be the responsibility of the head of the operating unit to prepare these reports for transmittal to GSA. In each case, the provision of DAO 218-1, "Legislative Activities" shall apply.

These reports shall be forwarded to OMO along with the transmittal addressed to the Committee Management Secretariat, General Services Administration, for the Assistant Secretary for Administration's signature. OMO shall be responsible for transmitting these reports to GSA.

.5 Availability and Disposition of Reports. A copy of the Department's reports under paragraphs .1, .2 and .3 of this Section shall be maintained in OMO, and copies of the reports dealing with the respective committees shall be kept by the Committee Liaison Officer and the Designated Federal Officer. Copies of the report on closed meeting activities shall be filed with the Library of Congress and the Department's Central Reference and Records Inspection Facility by OMO, and the public availability thereof will be announced in the *Federal Register* by OMO. Ultimate disposition of all these reports shall comply with approved Records Control Schedules.