

Involvement with FACA

Federal Advisory Committee Act (FACA)

- FACA applies to advisory committees that are established or utilized by a federal agency
- Specific criteria must be met for FACA to apply to a group or committee
 - 1) There must be a committee, board, panel, or similar group (i.e., more than one individual),
 - 2) The committee must be established or utilized by a federal agency, and
 - 3) The purpose of the committee must be advice or recommendations.

FACA-Legally Speaking

- **Legislative underpinnings to FACA**
 - FACA-Public Law 92-463, 1973. Establishes framework to create, manage, operate, and terminate committees. Establishes the Committee Management Secretariat position.
 - Government in the Sunshine Act- Public Law 94-409, 1977. Serves as the basis to close all or part of the advisory committee meeting.
 - Unfunded Mandates Reforms Act-Public Law 104-4, 1995. Provides an exclusion from FACA for interactions between Federal Officials and their State, Local, or Tribal counterparts.
 - FACA Amendment-Public Law 105-153, 1977. Clarifies public disclosure requirements applicable to NAS, NAPA. Excludes from FACA any committees created by NAS, NAPA. Includes in the exclusions permanent part-time officers or employees of the Federal Government.
 - Executive Order 12838, June 28, 1994, orders reduction of committees within the Executive Branch and limits establishment of new ones.
 - Department Regulation 1041-001, provides procedures under the jurisdiction of the Department of Agriculture.
 - OMB Circular No. A-135, October 5, 1994, requires establishment of committee planning and review process.
 - Vice Presidential Memo, June 1994, expands the Presidential policy of controlling the number of committees and requires committee planning and review process.

Establishing a FACA Committee

- Committees must be chartered
- Charters must be renewed every two years
- Membership must be “vetted” by the White House liaison
- Membership must be fairly balanced in terms of points of view represented and functions to be performed

Appointments--FACA

- Nominations come from the field to the WO FACA Officer
- White House liaison conducts background checks on all nominees
- Vetted nominees are recommended by the Chief and approved by the Secretary
- Letters of Appointment and Certificates signed by the Secretary are mailed to the Committee’s DFO at a later time (Committees can meet without these letters & certificates)

Lifecycle of FACA Committees

FACA Committees can be terminated as soon as:

- Their stated objectives have been accomplished
- The committee's work has become obsolete
- The cost of the committee's operation is excessive in relation to the benefits accruing to the Federal Government.

- What if...questions? Scenarios? For answers please click this link:
- http://www.access.gpo.gov/nara/cfr/waisidx_07/41cfr102-3_07.html

ADMINISTRATIVE REQUIREMENTS

- Meetings (Notification, Open, Closed)
- FRN, Press Release
- Minutes and all other records
- Annual Reporting