

§ 1701.7

5 CFR Ch. VII (1–1–01 Edition)

paragraphs contains at least two names for each vacancy.

(c) Where any member ceases to serve in the official position from which he or she was originally appointed under §1701.4, that place on the Commission is deemed to be vacant.

(d) Thirteen members of the Commission constitute a quorum, but two or more members constitute a quorum for the purpose of conducting hearings.

§ 1701.7 Commission personnel.

(a) *Executive Director.* Is appointed by the Commission itself. He is appointed without regard to the Civil Service laws or Classification Act of 1949, and without regard to political affiliation. He is appointed solely on the basis of fitness to perform the duties of the position.

(b) *Other employees.* Subject to the provisions of part 1720 of this chapter and of such other rules and regulations as the Commission may adopt, the Chairman, without reference to the Civil Service laws and the Classification Act of 1949, and without regard to political affiliation, may appoint, fix the compensation of, and remove such other personnel as he deems necessary.

(c) *Temporary employees.* The Chairman may also procure temporary and intermittent services to the same extent as is authorized by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a), but at rates not to exceed the daily rate for a GS-18.

§ 1701.8 Activities of the Commission.

The primary role of the Commission is to give advice. It issues no rules or regulations governing the general public, and the advice it gives is addressed to various levels of the American government, such as the Congress of the United States, and the States, counties, and cities. The advice it gives is contained in its recommendations and reports, and these in turn are based on research conducted by the Commission and its staff.

(a) *Selection of research topics—policy applied.* The policy applied by the Commission in the choice of research topics is to select ones which will strengthen the federal system, and promote the power balance and fiscal balance among the various levels of govern-

ment. Weight is given to new ways of dealing with practical intergovernmental problems. Routine and continual re-evaluation of the same topic will be avoided whenever possible.

(b) *Selection of research topics—criteria.* The Commission, by vote of its members, selects all research projects and approves acceptance of all research grants. Its selections take into account the following general criteria:

- (1) Importance of the subject area,
- (2) Timeliness of the issues,
- (3) Utility to the governmental levels,
- (4) Compatability with the competence of the staff, and
- (5) Appropriateness for the Commission's composition and procedures.

(c) *Outside requests for research.* The Commission undertakes research requested by the Congress and by executive agencies to the extent that its work program and resources allow. However, where such requests do not meet the Commission's research selection criteria or where undertaking the work would impede other important work in progress, the Commission will necessarily seek additional funding to expend its work capacity temporarily. The Commission does not make research grants to other outside parties on topics those parties have selected for study nor will it request appropriation for such studies.

(d) *Special funding of projects.* ACIR will seek and accept grants for work on intergovernmental subjects that accord with the Commission's finding that the subject is of prime intergovernmental importance, if it is within the capacity of the staff—or outside scholars and consultants engaged for this purpose—to produce a study that meets the Commission's usual standards of quality.

§ 1701.9 Step-by-step development of Commission recommendations.

The Commission itself selects the research projects to be undertaken and assigns the priority to be given among projects. In making its selection the Commission may consider exploratory research by the ACIR staff, the Commission members expertise, and any other information the Commission members have. Thereafter:

(a) *Working outline.* An outline of the project is prepared by the one or more staff members assigned to it by the Executive Director. In addition, the Chairman in his or her discretion, may assign one or more Commission members to monitor the staff work. The working outline covers the issues to be dealt with and the research techniques to be used. This outline is sent to the Commission members and reviewed at a "Thinkers" Session.

(b) *Thinkers session.* The participants at a Thinkers Session are selected by the staff, after seeking suggestions from Commission members. Participants are usually professors, researchers, and other experts who have a special knowledge and interest in the subject matter of the project. If Commission members have been assigned to oversee the work, every effort will be made to enable them to attend. Thinkers Sessions are held at times convenient to the participants and are usually held at the ACIR headquarters in Washington, but may be held elsewhere if necessary for the convenience of the participants.

(c) *Preliminary draft.* Following the Thinkers Session, the working outline will be appropriately revised and the staff will conduct the research work and prepare a preliminary draft of the study that may include a range of possible legislative recommendations for Commission consideration.

(d) *Critics session.* After being reviewed internally, the preliminary draft is subjected to review and criticism by an informal group of critics, some of whom may have been members of the thinkers group. The critics also provide expert knowledge and a diversity of substantive and philosophical viewpoints. Care is taken to include among the critics representatives of national associations of state and local officials, as well as of Congress and federal departments and agencies. If Commission members have been assigned to oversee the work, every effort is made to encourage them to attend any meeting of the critics. Participants in a critics session are selected by the staff after seeking suggestions from Commission members. Responses to the criticisms and suggestions presented at

a critics meeting are determined by the staff.

(e) *Revision and submission to Commission.* The draft report is then revised by the staff in light of criticisms and comments received both orally and in writing from critics, Commission members and others. A summary of the draft report, along with potential recommendations, is included in a "Docket Book" and transmitted to Commission members at least three weeks in advance of the meeting at which it is to be considered. To the maximum extent feasible, copies of the entire report are made available to all interested parties at least two weeks before the full Commission considers the study.

(f) *Advisory committee.* In exceptional projects the Executive Director, or the Commission, may appoint a committee of advisors to help guide the research. The committee will consist of academics and practitioners who have special competence and interest in the subject under study and, particularly, who are familiar with the latest developments in the field. The committee advises the staff and the Commission on all phases of the research, from initiating the research design to developing proposed recommendations. The committee's activities supplement but do not replace thinkers and critics sessions.

(g) *Adoption of recommendations.* The draft recommendations are then considered and separately voted upon by the Commission in meeting. Majority vote of those present is required for approval. Extensive amendments and new germane matter must be set forth in writing and be made available to each member attending the meeting before they can be voted upon. New matter determined to be non-germane by the Chairman is referred to the staff with instructions on how to deal with the material.

(h) *Dissent.* Members are free to dissent from actions adopted by the Commission and may have that dissent registered in any of several ways. If requested, the names of dissenting members will be shown in the minutes of the meeting where the vote was taken. To the extent dissenting members feel the minutes fail to reflect adequately

the nature of their dissent, they may, with Commission approval, have the minutes revised to present their viewpoint more fully. If a report is involved, the member may be listed as having dissented on a point at an appropriate location in the text of the report. In addition, if the member wishes, a statement of dissent may be included in the report at some appropriate place. On request, the staff will assist members in drafting explanatory dissent statements for inclusion in either the minutes or reports.

(i) *Informal action by the Commission—polling.* The Chairman, on his own motion, may poll the membership of the Commission to determine the views of members on matters on the agenda of a regular or special meeting of the Commission but which were not considered by the Commission. Votes so obtained may either be by mail or by telephone, but if by telephone, they must be confirmed in writing. The result of any poll is reported in the Docket Book for the next session of the Commission for ratification. At that time it is subject to a motion to reconsider, but not at any later time.

§ 1701.10 Other activities of the Commission.

(a) The Commission devotes the necessary amount of ACIR staff time to technical assistance, publications, and education activities so as to disseminate Commission reports and encourage study of emerging public problems which may require adoption of Commission legislative recommendations. In carrying out these implementation activities, Commission members and the staff conduct and participate in press conferences, briefings for legislative and policy officials, legislative hearings, seminars and workshops, technical assistance visits to specific jurisdictions, and other activities appropriate to its statutory mandate.

(b) *Support activities.* In support of its implementation activities, the Chairman and members of the Commission complement the staff work by participating in press conferences and briefings for legislative and policy officials, testifying before Congressional committees and state and local legislative bodies, participating in their home

states in press and legislative activities to generate interest in ACIR reports and recommendations and to advance their implementation, making speeches as representatives of the Commission, serving as a two-way communications channel with the ACIR staff, and undertaking such other assignments on behalf of the Commission as may be appropriate.

(c) *Publications.* ACIR reports containing legislative recommendations or Commission “findings” or “conclusions” (“A” series) and major research reports not containing legislative recommendations (“M” series) are published only after approval by the Commission. Other reports and publications may be published with the approval of the Executive Director as follows:

Public Opinion Survey (“S” series)
Intergovernmental Perspective
In Brief (“B” series)
“What is ACIR?” Brochure
Publications List
Staff Working Papers
Information Bulletins

(d) *Hearings.* Whenever in the opinion of the Commission it is necessary or desirable to have a factual determination based on the testimony of sworn witnesses in an adjudicatory-type hearing, or to provide a forum for receiving statements from interested persons or members of the public, or a part thereof, in a legislative-type hearing, the Commission, or a sub-committee of the Commission (when authorized by the Commission) or any number of members thereof (not less than two) may hold a public hearing. Factors weighed when determining whether or not to hold a hearing include, but are not limited to:

(1) The extent to which all directly affected interests were represented in the critics session.

(2) Whether directly affected interests have requested a hearing with the Commission.

(3) The extent to which a report contains findings, conclusions or potential recommendations on which identifiable interests are in sharp disagreement.

(4) The extent to which hearings may be a good device for directing public attention to the Commission, the report, or both.