

STATEMENT FOR THE RECORD OF

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FOR THE DEPARTMENT OF DEFENSE

BEFORE THE

INFORMATION POLICY, CENSUS, AND NATIONAL

ARCHIVES SUBCOMMITTEE

OVERSIGHT AND GOVERNMENT REFORM COMMITTEE

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Good Afternoon, Mr. Chairman and Members of the Subcommittee. Thank you for the opportunity to address this committee about potential improvements to the Federal Advisory Committee Act (FACA) of 1972.

By way of introduction, in August 2006, most of the Secretary of Defense's statutory and regulatory authorities involving federal advisory committees were delegated to Mr. Michael B. Donley, the Director for Administration and Management, Office of the Secretary of Defense. As the major policy decision-maker, Mr. Donley consults with the Secretary and Deputy Secretary of Defense on key FACA-related issues.

As the Department's Committee Management Officer (CMO) I work closely with the GSA's Committee Management Secretariat, Mr. Bob Flaak, who I join with today to testify before the committee. With the assistance of Mr. Jim Freeman, Deputy Committee Management Officer, we handle the day-to day policy oversight and program issues for Mr. Donley.

As I offer our thoughts on potential improvements to the Federal Advisory Committee Act, it is important for you to know that my deputy and I bring both policy and operational perspectives to this task. In addition to my CMO role in help to set and oversee committee management policy in DoD, my secondary role is to provide logistical support to various DoD-supported federal advisory committees supported by the Washington Headquarters Services.

With a combined experience base of 11 years, my deputy and I act as program managers operationally establishing, supporting and terminating numerous federal advisory committees. Our work includes a broad spectrum of support, including budget development, facility management, information technology, human resources, financial management, event management, supplies and contract support – everything needed to “operationally establish or terminate” a federal advisory committee. With the able

support of a skillful staff we have successfully stood up key committees in a short period of time, the most recent of which was *The President's Commission on Care for America's Returning Wounded Warriors*. We were fortunate enough to have this Committee up and running in seven short working days.

RECOMMENDATIONS

Mr. Chairman, based upon our unique perspective and experiences, I would like to offer six recommendations for modification to the Act, for your consideration:

Committee Member Appointments and Renewals

DoD and OPM discussions concerning expert or consultant appointment authority in 5 CFR 304.103 are ongoing. 1 Currently, DoD reviews over 1200 committee members on an annual basis, which is a heavy administrative burden.

Delineation of Chairperson Authorities and Responsibilities

There is little discussion of the chairperson's authorities and responsibilities in the Act and it's implementing federal regulations. This lack of clarification, in our opinion, sometimes creates a misperception that the committee lacks independence. We believe the Act should clarify that the chairperson, as head of the committee, is responsible for ensuring that the committee operates consistent with existing statutes, federal regulations and agency guidelines.

Acquisition of Leased Facilities

Acquiring leased facilities in a timely manner is always a major stumbling block when standing up a federal advisory committee, especially those lasting only 45, 60, or 90 days and large committees like the *Commission on the National Guard and Reserves* or the *Base Reduction and Closure Commission*. From an agency perspective, it would be easier to stand up a committee if GSA had the authority in

limited circumstances to waive the competition requirement for leased facility acquisition under title 40, United States Code.

Tracking of Recommendations and Outcomes

We have seen in the last year alone an increased significance in the role federal advisory committees have in examining and making recommendations on subjects of great interest to the public. From our perspective, the Act currently details information about every aspect of Federal Advisory Committee work, with the exception of what may be the most important by-product: Recommendations and Outcomes. The outcomes are the final phase of the Committee “life cycle” and, like the committee’s deliberative process, of paramount concern to your constituents. To this end we recommend that the Act require a transparent mechanism for tracking and reporting the status of final recommendations and outcomes.

Addressing Technological Advancements

It has been our experience that the creative nature of some committees makes it increasingly challenging for the Department to walk that fine line between management oversight and ensuring that we do not unduly influence the committee’s work.

We recognize that we live in a technological age not envisioned when the legislation was originally enacted. We recommend this Subcommittee explore opportunities and the restraints that new technology creates for committees and agencies; keeping in mind the Act’s underlying principals. For example, video teleconferencing offers an opportunity to facilitate committee meetings, but at what expense to public participation or agency security requirements.

Scheduled Review of Legislation

There is currently no regular schedule for review of the Act and consideration of the changing environments in which Committees must operate. For this reason, we recommend The Act require a mandatory review of the legislation every 10 years. A set of evaluation criteria should be created to conduct this scheduled assessment in order to provide a baseline for discussions at each successive review.

Finally, Mr. Chairman, we hope these recommendations will be of value to you as you consider modifications to the Act. Ultimately, we recognize that when we look for ways to leverage technology, communicate more successfully with each other and the public ... the results are committees that can work within the scope of the FACA legislation and are actively engaged in the level and quality of work needed by the Department.

This concludes my prepared statement. I appreciate the opportunity to share with you our perspectives and experience. I would be pleased to answer any questions you may have.