

July 1998

FEDERAL ADVISORY COMMITTEE ACT

Views of Committee Members and Agencies on Federal Advisory Committee Issues



General Government Division

B-279404

July 9, 1998

The Honorable Stephen Horn
Chairman, Subcommittee on Government Management,
Information, and Technology
Committee on Government Reform and Oversight
House of Representatives

The Honorable John Glenn
Ranking Minority Member
Committee on Governmental Affairs
United States Senate

Federal agencies often receive advice from advisory committees, and there were 963 committees governmentwide in fiscal year 1997 established for this purpose. Federal advisory committees are to be established and to operate in accordance with requirements of the Federal Advisory Committee Act (FACA). Congress is currently exploring possible improvements to FACA, and this report responds to your request that we address certain questions about federal advisory committees and FACA requirements. On June 15, 1998, we reported to you on how the General Services Administration (GSA) had carried out its governmentwide advisory committee oversight responsibilities under FACA.¹ Specifically, as agreed with your offices for this report, we surveyed

- advisory committee members to obtain their perceptions on the extent to which their committees provided balanced and independent advice and recommendations as required by FACA;
- federal agencies to obtain their views on the extent to which they found compliance with FACA useful or burdensome, the impact of Executive Order 12838 (which placed ceilings on the number of advisory committees) on their ability to accomplish their missions, and whether any advisory committees mandated by Congress should be terminated; and
- advisory committee members and federal agencies on the extent to which they believed the public was afforded access to advisory committee proceedings and a means to express their views to agencies and their advisory committees.

To obtain the views of advisory committee members on these matters, we sent a questionnaire to a randomly selected, statistically representative sample of federal advisory committee members governmentwide. Of the

¹Federal Advisory Committee Act: General Services Administration's Oversight of Advisory Committees ([GAO/GGD-98-124](#), June 15, 1998).

900 committee members in our sample, we received usable questionnaire responses from 607—a response rate of about 67 percent. The numbers and percentages of committee member respondents that we cite in this report are generalizable to the committee members from which we selected our sample.

The individuals we surveyed were members of peer review, scientific/technical, nonscientific, national policy, and other advisory committees. Agencies use peer review panels for evaluating contractors or applications for research or other grants for federal funding, and FACA requires agencies to treat peer review panels as advisory committees. Because the work of peer review panels typically is different from the work of other advisory committees, we divided the committee members who responded to our questionnaire into two groups: members of peer review panels and members of all other advisory committees, which we refer to as general advisory committees. Whenever one group's response rate to a question was at least 5 percentage points different from the overall response rate and appeared to us to be consequential, we provided that group's response. When the difference did not appear to be consequential, we presented only the overall response rate.

To obtain the views of federal agencies on the specific issues, we sent a questionnaire to 19 federal agencies. These 19 agencies account for most—about 90 percent—of the federal advisory committees. All 19 agencies responded to our survey.

More information about our objectives, scope, and methodology is contained in appendix I. We did our work between December 1997 and May 1998 in accordance with generally accepted government auditing standards. We requested comments on a draft of this report from the Administrator of GSA and the Acting Director of the Office of Management and Budget (OMB) or their designees. Their comments are included at the end of this letter.

Results in Brief

Overall, the views presented by both the committee members and agencies we surveyed provided useful insights into the general operation of FACA as Congress explores possible improvements to FACA. The responses of committee members to a series of questions, when taken together, conveyed a generally shared perception that advisory committees were providing balanced and independent advice and recommendations. Although the percentage differed by question, 85 percent to 93 percent of

the respondents said their committees were balanced in membership, had access to the information necessary to make informed decisions, and were never asked by agency officials to give advice or make recommendations based on inadequate data or analysis or contrary to the general consensus among committee members. General advisory committee respondents—77 percent of them compared to 85 percent overall, but a large majority nevertheless—said their committees were never asked to give advice or make recommendations based on inadequate data or analysis.

FACA requirements were considered to be more useful than burdensome by 10 of the 19 agencies. For the other nine agencies, the requirements were considered either as burdensome as they were useful or somewhat more burdensome than useful. In addition to their overall characterizations, the agencies also rated how useful and burdensome they found each of 17 FACA requirements. The majority of the agencies considered most of the 17 requirements to be useful to a moderate or greater extent. The majority considered a few of the requirements to be burdensome to a moderate or greater extent, and those requirements were among those they also considered to be useful. Two requirements—annual reporting on closed meetings and filing committee reports with the Library of Congress—were considered by a majority of the agencies to have “little or no” or only “some” usefulness or burden. Among the 19 agencies, the general consensus was that the possibility of future litigation over compliance with FACA requirements was not an inhibiting factor in their decisions on whether to form new advisory committees.

The ceilings on discretionary advisory committees imposed by Executive Order 12838 did not deter a majority—12 of 19—of the agencies from seeking to establish such committees, according to their responses. (Discretionary advisory committees are those created under agency authority or authorized—but not mandated—by Congress.) However, seven agencies said the ceilings did deter them. Some of the seven commented that cases occurred in which a new committee may have been warranted but it was not established. Agencies could seek relief from their ceilings from OMB, which had authority under Executive Order 12838 to approve the establishment of a committee that would take an agency over its ceiling. Three of the 19 agencies reported making 4 such requests to OMB, and all were approved. Two of these three agencies were among the seven agencies that said ceilings had deterred them from establishing advisory committees.

Agencies identified a total of 26 advisory committees mandated by Congress that they believed should be terminated. This number represented about 6 percent of congressionally mandated advisory committees in existence during fiscal year 1997. Three agencies also reported that over fiscal years 1995 through 1997 they asked Congress to terminate 18 mandated advisory committees. Only one of those committees was terminated, according to the agencies. The remaining 17 committees were among the 26 committees that agencies said should be terminated.

The overall responses we received from committee members on the issue of public participation were mixed. About 27 percent of the respondents said that all of their committee meetings were open to the public, and 37 percent said that all of their committee meetings were closed to the public. Another 19 percent of the respondents said some meetings or portions of meetings were closed. We also asked whether members of the public were ever allowed to express their views to the committee. About 44 percent of the respondents answered yes, 31 percent answered no, and 25 percent were not sure.

Advisory committee meetings can be closed to the public to protect such things as trade secrets or information of a personal nature. Peer review committees often deal with proprietary or other sensitive information, and responses from members of peer review panels indicated that panels were much less likely to provide public access and obtain public input. For example, about 64 percent of the respondents who served on peer review panels said that their meetings were always closed to the public, and 2 percent said their meetings were always open. About 52 percent of the panel respondents said that the public was not allowed to express views to their panels, and 12 percent said the public was allowed.

Most of the agencies—16 of the 19—did not believe that FACA had prohibited them from soliciting or receiving input from the public on issues or concerns of the agency independent of the FACA process. Most of the 19 agencies also said they permitted members of the public to speak before their advisory committees, although there were likely to be restrictions, such as the amount of time available for speakers and the amount of time available to each speaker. Still, some agencies were reluctant to get input from parties that were not chartered as FACA advisory committees because of concern that this could lead to possible litigation over compliance with FACA requirements. Eight agencies said this possibility inhibited their getting input from parties outside of FACA to

some, a moderate, or a very great extent. More explicitly, six agencies, including five of the previous eight, reported that they decided not to obtain outside input at least eight times during fiscal years 1995 through 1997 because of the possibility of future litigation over compliance with FACA.

Background

In 1972, Congress passed FACA in response to a concern that federal advisory committees were proliferating without adequate review, oversight, or accountability. Although Congress recognized the value of advisory committees to public policymaking, it included measures in FACA intended to ensure that (1) valid needs exist for establishing and continuing advisory committees, (2) the committees are properly managed and their proceedings are as open as feasible to the public, and (3) Congress is kept informed of the committees' activities. Under FACA, the President, the Director of OMB, and agency heads are to control the number, operations, and costs of advisory committees.

To help accomplish these objectives, FACA directed that a Committee Management Secretariat be established at OMB to be responsible for all matters relating to advisory committees. In 1977, the president transferred advisory committee functions from OMB to GSA. The president also delegated to GSA all of the functions vested in the president by FACA, except that the annual report to Congress required by the act was to be prepared by GSA for the president's consideration and transmittal to Congress.

GSA, through its Committee Management Secretariat, is responsible for prescribing administrative guidelines and management controls applicable to advisory committees governmentwide. It also has other responsibilities, including certain oversight responsibilities, such as consulting with agencies on establishing advisory committees and conducting comprehensive reviews of advisory committees. To fulfill its responsibilities, GSA has developed regulations and other guidance to assist agencies in implementing FACA, has provided training to agency officials, and was instrumental in creating and has collaborated with the Interagency Committee on Federal Advisory Committee Management.

FACA assigns agency heads responsibility for issuing administrative guidelines and management controls applicable for their advisory committees. FACA and GSA regulations assign them additional responsibilities for their advisory committees. For example, agency heads are responsible for (1) appointing a designated federal officer for each

committee to oversee the committee's activities, (2) reviewing annually the need to continue existing committees, (3) ensuring that meetings are held at reasonable times and places, (4) ensuring that members of the public are permitted to file written statements with the committees and are allowed to speak to the committees if agency guidelines permit, and (5) reviewing committee members' compliance with conflict-of-interest statutes. FACA also calls for agency heads to designate a committee management officer to whom the agency head frequently delegates these responsibilities. In February 1993, the President issued Executive Order 12838, which directed agencies to reduce by at least one-third the number of discretionary advisory committees by the end of fiscal year 1993. Discretionary committees are those created under agency authority or authorized—but not mandated—by Congress. OMB, in providing guidance to agencies on the executive order, established a maximum ceiling number of discretionary advisory committees for each agency and a monitoring plan. Under the guidance, agencies were to annually submit committee management plans to OMB and GSA.

The number of advisory committees grew from 1,020 in fiscal year 1988 to 1,305 in fiscal year 1993. The number then declined over the next several years to 963 advisory committees in fiscal year 1997. This decrease occurred after the President's February 1993 executive order to reduce the number of discretionary committees.

A total of 36,586 individuals served as members of the 963 committees in fiscal year 1997, and GSA reported that the cost to operate the 963 committees in that year was about \$178 million. FACA permits agencies to compensate nonfederal committee members for their services; and according to GSA data, agencies paid about \$14 million in fiscal year 1997 for such services. Advisory committee members are to be reimbursed for their travel, lodging, and meals. The single largest cost in fiscal year 1997—about \$81 million of the \$178 million—represented the value of compensation paid to federal employees for the time they spent assisting and monitoring advisory committees.

Although the number of advisory committees has decreased, the average number of members per committee and the average cost per committee have increased. On average, between fiscal years 1988 and 1997, the number of members per advisory committee increased from about 21 to 38, and the cost per advisory committee increased from \$90,816 to \$184,868. In constant 1988 dollars, the average cost per advisory committee increased from \$90,816 to \$140,870 over the same period.

Advisory Committee Members' Views on Whether Committees Provide Balanced and Independent Advice and Recommendations

For each advisory committee member to whom we sent a questionnaire, we identified an advisory committee to which the member belonged and instructed the member to use that committee in answering our questions. The committee we identified was the only federal advisory committee of which most respondents said they were members. Respondents had served as members on these committees for various periods. About 28 percent had served 1 year or less, 54 percent had served between 1 and 4 years, and 18 percent had served over 4 years.

The answers the committee members gave to our survey showed that generally they believed their committees had worthwhile purposes, that the advice and recommendations that the committees gave were consistent with those purposes, and that the advice and recommendations were balanced and independent. In addition, they generally believed that the agencies to which their committees reported sought advice and recommendations from the committees and used the advice or recommendations after receiving them. Specifically:

- About 94 percent of the respondents generally or strongly agreed that the committees they were affiliated with had clearly defined purposes, and 96 percent generally or strongly agreed that the committees' purposes were worthwhile.
- Ninety-four percent of the respondents generally or strongly agreed that the advice or recommendations made by their committees were consistent with the committees' purposes.
- About 90 percent of the respondents generally or strongly agreed that committee membership was fairly balanced in terms of the points of view represented, and 85 percent generally or strongly agreed that their committees included a representative cross-section of those directly interested in and affected by the issues discussed by the committees.
- About 79 to 82 percent of the respondents said they were provided to a great or very great extent with the necessary preparatory materials prior to (1) committee meetings, (2) discussing issues, and (3) deciding on issues. Another 11 to 13 percent said they had been provided the necessary preparatory material to a moderate extent. The percentage of general advisory committee members who answered to a great or very great extent was less—67 to 72 percent—but still the vast majority.
- When asked if they generally had access to the information they needed to make an informed decision on an issue, about 93 percent of the respondents said they did in either all or most cases.
- About 76 percent of the respondents said committee members provided somewhat more or much more input than agency officials in formulating

committee advice or recommendations. About 79 percent of the respondents thought that committee members should provide somewhat more or much more input than agency officials in formulating committee advice and recommendations. However, respondents from general advisory committees expected and thought actual member input to be less. About 60 percent of the general advisory committee respondents said committee members usually provided somewhat more or much more input than agency officials, and 65 percent said that committee members should provide somewhat more or much more input. In addition, about 26 percent of the general advisory committee respondents, compared to about 16 percent of overall respondents, said input from committee members and agency officials was about equal; and 29 percent, compared to about 18 percent overall, said the input should be equal.

- About 85 percent of the respondents said that to their knowledge, no agency official had ever asked their committees to give advice or make a recommendation that was based on inadequate data or analysis. Fewer respondents who were members of general advisory committees said “no”—about 77 percent of them said their committees were never asked by agency officials to give advice or make recommendations on the basis of inadequate data or analysis. About 13 percent of the general advisory committee respondents reported that an agency official had made such a request, and 10 percent did not know one way or the other. These latter two percentages were larger than the overall percentages (8 percent and 7 percent, respectively) for the same two questions.
- About 92 percent of the respondents said that to their knowledge, no agency official had ever asked their committees to give advice or make a recommendation that was contrary to the general consensus of the committees. About 4 percent said officials had made such a request, and 4 percent did not know one way or the other.
- Eighty-seven percent of the respondents generally or strongly agreed that agencies solicited advice or recommendations from the committees, and about 84 percent said they strongly or generally agreed that the agencies considered the advice or recommendations.

Appendix II contains a copy of the questionnaire that we sent to committee members with the weighted number or percentage of committee members responding to each item.

Agencies' Views on How Useful or Burdensome FACA Requirements Were

FACA sets out at least 17 requirements for agencies to follow in establishing and operating federal advisory committees, including preparing a charter for the committee; developing plans for achieving a fairly balanced membership; keeping detailed minutes of committee meetings; and preparing annual reports to GSA on new, continuing, and terminated committees. (All 17 requirements are listed in app. IV.) We asked the 19 agencies several questions on how useful or burdensome they found FACA requirements.

With regard to the requirements overall, 10 agencies viewed them in a positive light. Of these 10 agencies, 6 said the requirements were much more useful than burdensome, and 4 said the requirements were somewhat more useful than burdensome. The views of the other nine agencies were less positive. Of these nine agencies, seven considered the requirements about as burdensome as useful, and two said the requirements were somewhat more burdensome than useful.

For each of 17 FACA requirements, we asked the 19 agencies to rate the extent of the requirement's usefulness. A majority of the agencies (generally more than 10 agencies) rated 14 of the 17 requirements as useful to a moderate, great, or very great extent. Most of the majority frequently rated a requirement's usefulness as great or very great. For example, 16 agencies said the requirement to create a plan for achieving fairly balanced committee membership was useful to a great or very great extent. Thirteen agencies considered the requirement to keep detailed meeting minutes as useful to a great or very great extent.

We asked the agencies to also rate the extent to which they considered each of the 17 requirements as burdensome. In comparison to the number of FACA requirements considered as useful, far fewer requirements were considered as especially burdensome by a majority of the agencies. Four requirements were rated by a majority of the agencies as burdensome to a moderate, great, or very great extent. These four requirements were: develop a plan to achieve balanced committee membership, keep detailed minutes of meetings, fulfill record keeping requirements, and prepare an annual report on each advisory committee. Interestingly enough, all four requirements also had been rated useful to a moderate, great, or very great extent by a majority of the agencies.

The agencies' responses regarding 3 requirements were different from their responses to the other 14. Two requirements—prepare an annual report on closed advisory committee meetings and file advisory committee

reports with the Library of Congress—were said by a majority of the agencies to have “little or no” or “some” usefulness or burden. There was a mix of answers for the third requirement—follow-up reports to Congress on recommendations by presidential advisory committees (any federal advisory committee that advises the president). Seven agencies said it was useful to a moderate or greater extent, and six said it was less than moderately useful. Nine agencies said it presented “some” or “little or no” burden, and four agencies said it was burdensome to a moderate or greater extent. Six agencies did not rate the usefulness or burden because they did not have any presidential advisory committees.

In rating the 17 requirements, agencies were given the opportunity to say what change they would make to each requirement. Seven agencies made suggestions, and four of them focused on the matter of rechartering committees. FACA prohibits an advisory committee from meeting or taking any action until a committee charter has been filed with certain officials (for example, the agency head) and Congress and requires that charters contain 10 specific items, such as the committee’s objectives and scope of activities and the period of time necessary to carry out its purpose. FACA requires agencies to recharter advisory committees every 2 years regardless of how much more time they will need to accomplish their purposes. Among the suggestions that the seven agencies made, two suggested that rechartering be required every 5 years instead of the current 2 years.

Under FACA, peer review panels are treated as advisory committees, and 6 of the 19 agencies indicated that they used peer review panels. Only one of the six thought that peer review panels should be subject to all FACA requirements. The other five agencies said that peer review panels should be exempt from some, most, or all FACA requirements. Although we did not specifically ask why the panels should be exempt from some or all FACA requirements, some of the five agencies indicated that they should be exempt because the nature of the panels’ work was incompatible with FACA requirements. For example, in contrast to the idea of open meetings as promoted by FACA, panel meetings were more often routinely closed to the public to protect the privacy or proprietary rights of those who submitted proposals.

Finally, we asked the agencies several burden-related questions that focused on the issue of litigation and FACA. We asked whether the possibility of litigation over compliance with FACA requirements inhibited them from forming new advisory committees and, more specifically, if

they decided against forming a new advisory committee anytime during fiscal years 1995 through 1997 because of possible litigation. The overwhelming response of the agencies was that the possibility of future litigation was not an inhibiting factor. Fourteen agencies said that the possibility of future litigation inhibited them to little or no extent. Seventeen agencies said that at no time during fiscal years 1995 through 1997 did they decide not to form a new committee because of the possibility of future litigation.

However, some agencies have been involved in litigation over their compliance with FACA. Seven of the 19 agencies reported that they were involved in such litigation during fiscal years 1995 through 1997 and identified 13 lawsuits in total. According to the seven agencies, the major issues being litigated were whether the group that provided information was subject to the requirements of FACA (nine cases), whether the makeup of an advisory committee was balanced (two cases), and procedural issues (two cases). As of the date they were answering the questionnaire, the agencies said that nine cases had been ruled on by the courts; three cases were pending; and one case that was decided in favor of the plaintiff was, in effect, rendered moot by a subsequent amendment to FACA in 1997. According to the agencies, of the nine cases ruled on by the courts, the courts ruled for the agencies in eight cases and for the plaintiff in one.

Agencies' Views of the Impact of Executive Order 12838

As previously mentioned, Executive Order 12838 established ceilings for each agency on the number of discretionary advisory committees. The number of discretionary committees in the aggregate that the 19 agencies reported having at the end of fiscal years 1995, 1996, and 1997 was about 88 percent, 95 percent, and 95 percent, respectively, of the aggregate ceiling.

Twelve of the 19 agencies said the ceilings did not deter them from seeking to establish any new advisory committees. In general, the 12 agencies reported being at or slightly below their ceilings at the end of the 3 years (fiscal years 1995 through 1997) for which we requested data. However, seven agencies said the ceilings did deter them from seeking to establish new discretionary committees. For most of the years for which we requested data, the seven agencies were at or slightly below their ceilings.

For those agencies that said they were deterred, we asked them to describe how the ceilings affected their ability to accomplish their

missions. Four said they had to reconsider whether an advisory committee would really be necessary or had to give more careful consideration of which committees would continue or which new committees would be established. Two also indicated that committees were not established that may have been warranted, although no numbers of such cases were given.

An agency could request approval from OMB to establish a committee that would place it over its ceiling, and 3 of the 19 agencies said they had made such requests over the 3-year period for which we requested information. In total, they said they made four requests to OMB, and OMB approved all four. Of these three agencies, two were among those that said they were deterred from seeking to establish new advisory committees by the ceilings imposed by the executive order. The third agency did not consider the ceiling to be a deterrent.

Mandated Committees Identified by Agencies for Termination

Congress has required agencies to have various advisory committees. According to GSA, there were 422 advisory committees in fiscal year 1997 that had been mandated by Congress. As agreed with your offices, we asked the 19 agencies in our survey whether they had any mandated committees that they believed should be terminated. Six agencies said yes and listed a total of 26 different advisory committees. Of the 26 committees, according to GSA, 17 held no meetings and incurred no costs in fiscal year 1997; 3 incurred some costs (\$4,000) but held no meetings; and 6 held meetings (14) and incurred costs (about \$190,000). The names of the 26 committees and the agencies they serve are shown in appendix III.

Three of the 19 agencies reported that they had made formal requests to Congress to terminate mandated committees during the 3 years for which we requested information (fiscal years 1995 through 1997). These three agencies were among the six agencies that identified committees that they believed should be eliminated. The three agencies asked Congress to terminate 18 mandated committees in total. According to the agencies, Congress terminated one of those committees. The remaining 17 committees were listed among the 26 committees that agencies said should be terminated.

Only Congress can terminate a congressionally mandated advisory committee, and we asked the 19 agencies whether they found that requirement burdensome. Twelve agencies indicated that they incurred little or no burden. The other seven agencies indicated that they felt

burden, and the extent of it ranged from some to great. We asked them for suggestions to alleviate this burden. Some suggested, in essence, that agencies be given the authority to terminate mandated committees. Agencies made various suggestions, such as that agencies should be given authority to terminate mandated committees after notifying Congress of their intent to do so or after 2 years with notification to congressional authorizing committees and after 4 years without notification.

In addition to asking for their suggestions, we asked all 19 agencies their opinions about a sunset/automatic termination for congressionally mandated committees. Their opinions were mixed. Ten agencies said a sunset/automatic termination requirement would be helpful to a moderate, great, or very great extent. Nine agencies said it would provide little or no help or only some help.

Appendix IV contains a copy of the questionnaire that we sent to agencies with the number of agencies responding to each item.

Advisory Committee Members' and Agencies' Views on the Extent of Public Participation

One intended purpose of FACA is to open government to the public. We asked the advisory committee members and the agencies that we surveyed a series of different questions about public participation.

Views of Advisory Committee Members

We asked committee members questions about (1) public access to committee meetings; and (2) public input in general to their committees (that is, without regard to whether it was by letter, in person at meetings, or by other means). The answers we received often depended on whether respondents were members of peer review panels or general advisory committees. Those answers indicated that peer review panels were less likely to obtain public access and input than were general advisory committees. The nature of their work may explain why peer review panels do not obtain public input as much as general advisory committees do.

About 27 percent of the respondents said that all of their committee meetings were open to the public, and 37 percent said that all meetings were closed to the public. Another 19 percent noted that some meetings or portions of meetings were open and others were closed. Finally, 17 percent of the respondents were not sure what access the public had to

their committee meetings. Most of those whose committees held closed or partially closed meetings agreed with their committees' reasons for closing those meetings to the public. Two reasons frequently cited were discussions involving personal privacy issues and discussions involving trade secrets.

According to GSA data, advisory committees frequently hold closed meetings. Agencies reported to GSA that about 58 percent of the 5,700 advisory committee meetings held in fiscal year 1997 were either closed or partially closed. Advisory committee meetings can be closed to the public if the president or the agency head to which the advisory committee reports determines that the meeting may be closed in accordance with provisions of the Government in the Sunshine Act (5 U.S.C. 552b(c)). The provisions provide for closed meetings to protect, for example, matters that need to be kept secret in the interest of national security or foreign policy; trade secrets; and information of a personal nature, the disclosure of which would constitute an invasion of privacy.

Respondents who were members of peer review panels—which frequently deal with such proprietary and sensitive information—were much less likely to say their committee meetings were totally open to the public and much more likely to say their meetings were totally closed to the public. About 2 percent of the panelists said their meetings were always open to the public. About 64 percent said their meetings were always closed to the public.

About 44 percent of all respondents to our survey said yes and 31 percent said no when asked whether members of the public were ever allowed to express their views to the respondents' advisory committees. The remaining 25 percent were not sure whether members of the public were allowed to express their views to the committees. Approximately 81 percent of those who replied no or not sure did not believe their committees should provide members of the public with the opportunity to express their views. In comparison to the overall percentages, respondents who were members of peer review panels were much more likely to say the public was not allowed to express views to the committee (52 percent of the panel members who responded), to say they were not sure whether the public was allowed (36 percent), and to believe the public should not be allowed to express their views to the committee (88 percent).

We also asked those who said their committees allowed the public to express its views (in other words, the 44 percent who said yes) whether

the committees provided sufficient opportunity to the public to express its views. About 59 percent replied that in their opinions, the opportunity was sufficient to a great or very great extent. Another 19 percent thought it was moderately sufficient. In comparison to these overall percentages, respondents from peer review panels were less likely to say the extent was greatly or moderately sufficient. About 21 percent said great or very great while 8 percent said moderate. A sizeable number—about 38 percent—said they had no basis to judge whether the extent was sufficient.

We also asked committee members about subcommittees they served on and whether FACA requirements were followed. About 34 percent of the respondents said the committees they served on had subcommittees, and 68 percent of the respondents said they had served on at least one subcommittee over the past year. A majority (about 59 to 72 percent of respondents) said that detailed minutes were kept, and the designated federal officer attended and either approved or called for all or most of the subcommittee meetings. However, less than one-half (about 41 to 45 percent of respondents) said that members of the public were given access to the meetings and allowed to provide input, either in writing or in person, for all or most of the subcommittee meetings.

Views of the 19 Agencies

In general terms, most of the agencies—16 of the 19—said FACA had not prohibited them from receiving or soliciting input from public task forces, public working groups, or public forums on issues or concerns of the agency. The three agencies that said FACA has prohibited them explained that they had to limit their prior practice of forming working groups or task forces to address specific local projects or programs, that FACA has made it more cumbersome to seek citizen input because of the staff time required to complete FACA paperwork, or that solicitation of a consensus opinion from a task force or working group may lead to that task force or group being considered a “utilized” committee and thus subject to FACA.

Although agencies generally reported that FACA has not prohibited them from obtaining input, there appears to be some concern among agencies about the possibility of being sued for noncompliance with FACA if they obtain input from parties who are outside of the agency and its advisory committees. Eight of the 19 agencies said the possibility of such litigation has inhibited them in obtaining outside input independent of FACA to some, a moderate, or a very great extent. Moreover, six agencies, including five of the previous eight agencies, said there were at least eight instances over

the fiscal year 1995 through 1997 period when they decided not to solicit or receive outside input because of their concern about the possibility of future litigation.

Agencies determine if members of the public can speak at advisory committee meetings. We therefore asked the 19 agencies whether they permitted members of the public to speak before their advisory committees. Fourteen said yes and 5 said yes and no, indicating that they permitted the public to speak before some committees but not others. In this latter category, the reasons the agencies provided for not permitting the public to speak included time constraints, a need to maintain order, and statutory requirements that meetings be closed for such reasons as protecting classified information or safeguarding privacy act material.

When an agency does permit members of the public to speak before its advisory committees, there may be restrictions. According to the agencies, restrictions included public presentations being contingent on the time available at the end of meetings, time limits being imposed on speakers, and members of the public being requested to provide written statements.

For members of the public to speak at advisory committee meetings, they must be aware of when a meeting is to occur. FACA requires that specific information be placed in the Federal Register to notify interested parties of the scheduled date, time, and location of advisory committee meetings. Fifteen agencies said they notify the public of scheduled meetings by using methods in addition to the Federal Register, such as posting notices on the Internet; posting notices in newsletters, newspapers, and trade association publications; or mailing notices to stakeholders. However, four agencies said they used only the Federal Register notice. GSA regulations generally require agencies to give 15 days' advance notice in the Federal Register for committee meetings. Many of the agencies—14 of the 19—said they gave less than this 15 day advance notice at times during fiscal years 1995 through 1997. All together, these agencies said they gave less than 15 days' advance notice 153 times during the 3 years (fiscal years 1995 through 1997) for which we requested data. This number represented a very small fraction of the 15,885 committee meetings that GSA reported as being held during those years by all advisory committees.

We also asked the agencies about subcommittee meetings. The agencies reported that there were 463 subcommittees reporting to full committees in fiscal year 1997. These subcommittees held 926 meetings in fiscal year 1997, and 249 were reportedly not covered under FACA. For the 249

meetings not covered under FACA, agencies reported that the meetings were held for activities such as gathering information, drafting position papers, doing research, and performing analysis. Of eight agencies responding, the majority (five to six agencies) said that FACA requirements, such as Federal Register notices of meetings, detailed minutes, and public access, were not followed for all or most subcommittee meetings. About one-half (four to five agencies) said the subcommittee meetings were approved or called for and attended by the designated federal officer.

GSA and OMB Comments

GSA and OMB provided comments on a draft of this report. On June 11, 1998, we met with the Director of GSA's Committee Management Secretariat, who said he found the draft report to be very comprehensive, informative, and useful. The Director said that surveying committee members and agencies can provide the Secretariat very useful information to help it manage the federal advisory committee program, and the survey should be done every 3 or 4 years. However, according to the Director, no surveys have been done by the Secretariat and none are planned. The Director explained that the Secretariat lacks the technical expertise as well as the clear authority to conduct surveys of committee members and agencies.

The Director said the responses we received from committee members and agencies did not indicate any perceived significant systemic problems with the advisory committee program. However, he said the responses suggested areas that should be examined further, several of which GSA already had been examining and others of which GSA plans to examine. The Director said that GSA can address some of these areas by revising its FACA regulations, but addressing other areas will require legislative changes to FACA. For example, GSA expects to publish proposed regulations in July or August 1998 that will address the definition of an advisory committee. The Director said that GSA recognizes that some agencies or their field offices may sometimes be reluctant to obtain information from the public for fear of violating FACA, and one of GSA's goals in revising the regulations is to provide clarifying guidance and standards as to when FACA does and does not apply. According to the Director, GSA has been working with the Department of Justice on this definition because Justice is responsible for defending the government in advisory committee litigation. The Director also said that the use of subcommittees by advisory committees is another area that GSA intends to address in its regulations. For example, he believes that it is important for agencies to make uniform determinations of when a subcommittee meeting or other activity would be subject to FACA's requirements.

The Director said that GSA needs to evaluate and work with Congress on the usefulness of some specific FACA requirements, such as sending copies of advisory committee reports to the Library of Congress, and to proactively address the issue of terminating congressionally mandated committees when they no longer serve a useful purpose. He said that GSA was sympathetic to extending the charter period of advisory committees to beyond the 2-year period now stipulated by FACA. The Director also said GSA could possibly support exempting peer review panels from some FACA requirements, but GSA does not favor exempting them from all requirements. For example, he said it is important for the public to have access to information on how agencies ensure that peer review panels have balanced representation and are free from potential conflicts of interest. In addition, he noted that the number of peer review panels and their costs have benefited from the increased accountability provided by FACA and Executive Order 12838.

On June 12, 1998, an OMB official responsible for advisory committee matters said that OMB had no comments on the draft report other than that it accurately presented the impact of Executive Order 12838.

As agreed with your offices, unless you announce the contents of this report earlier, we plan no further distribution until 30 days after the date of this report. At that time, we will send copies of this report to the Ranking Minority Member, Subcommittee on Government Management, Information, and Technology, House Committee on Government Reform and Oversight; the Chairman, Senate Committee on Governmental Affairs; the Chairman and Ranking Minority Member, House Committee on Government Reform and Oversight; the Acting Director, OMB; the Administrator, GSA; and other interested parties. Copies will be made available to others on request.

Major contributors to this report are listed in appendix V. Please contact me on (202) 512-8676 if you or your staff have any questions.



Michael Brostek
Associate Director, Federal Management
and Workforce Issues

Contents

| | |
|--|----|
| Letter | 1 |
| Appendix I Objectives, Scope, and Methodology | 22 |
| Appendix II Responses to Survey of Federal Advisory Committee Members | 26 |
| Appendix III Mandated Advisory Committees That Agencies Believed Should Be Terminated | 38 |
| Appendix IV Responses to Federal Advisory Committees Agency Questionnaire | 39 |
| Appendix V Major Contributors to This Report | 63 |
| Tables | |
| Table I.1: Analysis of Sample Disposition | 23 |
| Table I.2: Number of Federal Advisory Committees at 19 Federal Departments and Agencies, Fiscal Year 1996 | 25 |

Abbreviations

| | |
|------|---------------------------------|
| FACA | Federal Advisory Committee Act |
| GSA | General Services Administration |
| OMB | Office of Management and Budget |

Objectives, Scope, and Methodology

The Chairman of the Subcommittee on Government Management, Information, and Technology, House Committee on Government Reform and Oversight; and the Ranking Minority Member of the Senate Committee on Governmental Affairs asked us to review selected matters relating to the Federal Advisory Committee Act (FACA). We addressed several aspects of these separate requests in two previous products.² Our objectives in this review were to obtain (1) federal advisory committee members' perceptions on the extent to which their advisory committees were providing balanced and independent advice and recommendations as required by FACA; (2) federal agencies' views on the extent to which they found compliance with FACA useful or burdensome, the impact of Executive Order 12838 on their ability to accomplish their missions, and whether any of their advisory committees mandated by Congress should be terminated; and (3) advisory committee members' and federal agencies' views on the extent to which they believed the public was afforded access to advisory committee proceedings and a means to express their views to agencies and their advisory committees.

To respond to these objectives, we designed and pretested two questionnaires, one of which we later sent to a randomly selected, statistically representative sample of federal advisory committee members and the other of which we sent to all 14 federal departments and to independent agencies with 10 or more advisory committees. Regarding the issue of public participation, we were unable to send a questionnaire to members of the public (individuals and organizations) who may have provided or attempted to provide information to advisory committees because we could not identify the universe of such individuals and organizations from which to draw a statistically representative sample to query.

Because a comprehensive listing of the names and addresses for all federal advisory committee members was not available, we requested from federal agencies the names and addresses of members assigned to advisory committees as of August 1, 1997. The Committee Management Secretariat assisted us in making this request to the agencies' committee management officers. We received the names (and about 95 percent of the addresses) for 28,499 committee members on 783 advisory committees in 43 federal agencies or entities. These numbers were somewhat less than the 36,586 members serving on 963 advisory committees in 57 federal agencies or

²Federal Advisory Committee Act: Overview of Advisory Committees Since 1993 (GAO/T-GGD-98-24, Nov. 5, 1997); and GAO/GGD-98-124, June 15, 1998.

entities during fiscal year 1997, according to General Services Administration (GSA) summary data as of April 27, 1998.³

Our survey of federal advisory committee members initially contained a sample of 900 committee members. Beginning on February 25, 1998, we mailed 865 questionnaires to a sample of committee members for whom the agencies provided us with mailing addresses. Committee members who did not respond to our initial questionnaire were sent a follow-up questionnaire beginning on March 31, 1998. Table I.1 summarizes the disposition of our sample of 900 committee members.

Table I.1: Analysis of Sample Disposition

| Disposition of sample | Number |
|---|---------------|
| Total committee members sampled | 900 |
| Unable to locate mailing address of committee member | 35 |
| Questionnaires returned by Postal Service due to inadequate address or lack of forwarding address | 31 |
| Refused to participate | 28 |
| Questionnaires not returned | 199 |
| Usable questionnaires returned | 607 |

This sample of 900 committee members was stratified according to the functional types of advisory committees, which we obtained from GSA. The types of committee functions we used to create our sampling strata included grant review, national policy, nonscientific, scientific/technical, and other. We combined the regulatory negotiation and other types and those unclassified by GSA into the functional type “other.” In each of these five strata, we selected a random sample of committee members. We randomly selected 400 of the 13,392 members of grant review committees, 200 of 6,263 members of scientific/technical committees, 180 of 5,586 members of nonscientific committees, 80 of 2,393 members of national policy committees, and 40 of 865 members of the other committees.⁴

We received usable questionnaires from 67 percent of the eligible sample. The response rate across the five strata ranged from 62 percent to

³We are aware of two factors that contributed to the differences between the number of committee members for which we received information and the number that GSA reported. Our number is for 1 day (August 1, 1997); GSA’s number includes individuals who were committee members at anytime during the fiscal year. Not every agency that we requested information from provided us with the names and addresses of their advisory committee members.

⁴Grant review committees is a term that GSA uses in categorizing advisory committees. According to GSA, the category includes committees that review contract proposals as well as grant applications. In this report, we refer to these committees as peer review panels, which is the generic name that they are commonly known by and is the term we used in our agency questionnaire.

72 percent. The overall sample had a confidence interval of no greater than ± 4 percent. The confidence interval for the grant review committees was no greater than ± 6 percent. The confidence interval for the others, which we refer to as general advisory committees, was no greater than ± 5.5 percent. The overall results are generalizable to all federal advisory committee members for whom we had names and addresses. The grant review and general advisory committee members results are generalizable to those types of advisory committees for which we had members' names and addresses. Although we did not test the validity of the respondents' answers or the comments they made, we took several steps to check the quality of our survey data. We reviewed and edited the completed questionnaires, made internal consistency checks on selected items, and checked the accuracy of data entry on a sample of surveys.

In addition to sampling errors, the practical difficulties of conducting any survey may introduce other types of errors, commonly referred to as nonsampling errors. For example, differences in how a particular question is interpreted by the survey respondents could introduce unwanted variability in the survey's results. We took steps in the development of the questionnaire, the data collection, and the data editing and analysis to minimize nonsampling errors. These steps, which we discuss earlier, included pretesting and editing the questionnaires.

The 19 federal departments and independent agencies to whom we sent questionnaires on February 24, 1998, accounted for 902 of 1,000 (90 percent) advisory committees that existed governmentwide in fiscal year 1996, the latest year for which such data were available at the time we selected the agencies. According to GSA data, the other 98 advisory committees were chartered by 40 federal entities (offices of the Executive Office of the President; independent agencies; and federal boards, commissions, and councils). Table I.2 lists the 19 departments and agencies in our survey and their number of advisory committees during fiscal year 1996. We received completed questionnaires from all 19 agencies. We asked each agency to provide a consolidated response covering all of its various organizational components. Although agency information in this review applies only to the 19 agencies surveyed and cannot be projected governmentwide, this information can be generalized to the 902 advisory committees in the government that we included in our review. We did not verify the accuracy of the data provided by the agencies.

**Appendix I
Objectives, Scope, and Methodology**

To aid us in meeting our objectives, we also interviewed GSA's Committee Management Secretariat officials and reviewed applicable laws, regulations, and guidance to agencies regarding advisory committee activities. We also reviewed applicable court decisions and our prior GAO reports related to participation by outside parties on advisory committee issues.

Table I.2: Number of Federal Advisory Committees at 19 Federal Departments and Agencies, Fiscal Year 1996

| Agency | Number of committees |
|---|-----------------------------|
| Department of Agriculture | 64 |
| Department of Commerce | 57 |
| Department of Defense | 59 |
| Department of Education | 11 |
| Department of Energy | 21 |
| Department of Health and Human Services | 243 |
| Department of Housing and Urban Development | 1 |
| Department of the Interior | 117 |
| Department of Justice | 11 |
| Department of Labor | 21 |
| Department of State | 14 |
| Department of Veterans Affairs | 24 |
| Department of the Treasury | 8 |
| Department of Transportation | 36 |
| Commission on Civil Rights | 51 |
| Environmental Protection Agency | 28 |
| National Endowment for the Arts | 24 |
| National Science Foundation | 65 |
| Small Business Administration | 47 |
| Total | 902 |

Source: Twenty-fifth Annual Report of the President on Federal Advisory Committees, Fiscal Year 1996.

Responses to Survey of Federal Advisory Committee Members

GAO

United States General Accounting Office

Survey of Federal Advisory Committee Members

Introduction

The U.S. General Accounting Office (GAO), an independent agency of Congress, is studying the operations of federal advisory committees. As part of our study, we are sending a questionnaire to a random, nationwide sample of advisory committee members in order to ascertain their perceptions on the extent to which their advice is being implemented, the extent to which they receive support from the agencies they serve, and the extent to which improvements may be needed to the committee management process.

Most of the questions in this questionnaire can be answered by checking boxes or filling in blanks. Space has been provided at the end of the questionnaire for any additional comments. The questionnaire should take about 15 to 20 minutes to complete.

GAO will take steps to safeguard the privacy of your responses. The number on this questionnaire is included only to aid us to follow up on committee members from whom we do not receive a response. Before releasing our report, we will remove this number so that your questionnaire can no longer be matched with your name. Survey results will be reported in summary form only. In addition, no

information will be provided on how members of any particular advisory committee answered the questions. Any discussion of individual answers or comments will omit any information that could identify the respondent or the committee.

Please return the completed questionnaire in the enclosed pre-addressed, postage-paid envelope within 10 working days from receipt. In the event the envelope is misplaced, the address is:

U.S. General Accounting Office
Mr. Ronald J. Cormier
441 G Street, NW
Room 2908
Washington, DC 20548

If you have any questions, please call either Ron Cormier at (202) 512-5027 or Steve Berke at (202) 512-8779.

We urge you to complete this questionnaire. We cannot develop information useful to Congress without your frank and honest answers.

Thank you very much for your time.

The federal advisory committee and agency for which we would like you to answer these questions is:

| |
|---|
| Label attached here. |
| Contained name of advisory committee and sponsoring department or agency. |

Please note: There are about 900 federal advisory committees in almost 60 federal agencies or other federal entities. These advisory committees can be established by the President, by Congress, or by federal agencies. These committees, which can also be called boards, panels, commissions, or councils, are created for a wide variety of functions. In this questionnaire, when we say "your committee," refer to the committee identified on the label above.

**Appendix II
Responses to Survey of Federal Advisory
Committee Members**

Background Information

1. In which of the following sectors do you work? *(Check all that apply.)*

3,099 Federal government
3,007 State or local government
6,134 Corporation/Private business
354 Trade union or labor organization
15,425 A college or university
2,228 A non-university affiliated research organization (profit or nonprofit)
708 A philanthropic organization
776 An advocacy organization
557 A trade association
1,718 Other - Please specify: _____

2. How long have you served on the committee that appears on the label on page 1? *(Check one.)*

N=28,167

16.4% Less than 6 months
11.8% 6 months to 1 year
21.7% Between 1 and 2 years
32.7% Between 2 and 4 years
17.5% More than 4 years

3. Since your appointment, about how many meetings has your committee held? *(Check one.)*

N=28,121

36.4% 1 to 3 meetings
21.0% 4 to 6 meetings
14.6% 7 to 10 meetings
24.2% More than 10 meetings
3.9% Not sure

4. Since your appointment, about how many committee meetings have you attended? *(Check one.)*

N=28,164

0.2% 0 meetings
43.9% 1 to 3 meetings
22.0% 4 to 6 meetings
14.6% 7 to 10 meetings
19.4% More than 10 meetings

**Appendix II
Responses to Survey of Federal Advisory
Committee Members**

5. Not including the committee listed on the label, on how many federal advisory committees do you currently serve?
(Enter number. If no others, enter zero.)

_____ Committee(s) N=28,259

0 committees = 75.2% 1 committee = 15.7% 2 committees = 6.5%

3 to 5 committees = 2.3% More than 5 committees = 0.4%

6. Not counting your current federal advisory committee appointment(s), on how many federal advisory committees have you served in the past? (Enter number. If no others, enter zero.)

_____ Committee(s) N=28,132

0 committees = 45.3% 1 committee = 17.5% 2 committees = 17.0% 3 to 5 committees = 13.5%

6 to 10 committees = 4.9% More than 10 committees = 1.7%

Administrative Information

7. Which of the following methods is used most often by your committee to convey its advice or recommendations?
(Check one.)

N=28,159

69.9% Written reports

11.1% Memorandums or letters

13.8% Oral briefings, presentations, or testimonies

2.3% Other - Please specify: _____

2.8% More than 1 box checked

8. Is the current chairperson of your committee a federal official representing the agency that sponsors the committee? (Check one.)

N=28,068

32.4% Yes

60.6% No

6.9% Do not know

**Appendix II
Responses to Survey of Federal Advisory
Committee Members**

9. In your opinion, how adequate or inadequate is the current level of administrative or staff support that the sponsoring agency provides to your committee? *(Check one.)*

N=28,211

- 29.3% More than adequate
 56.4% Generally adequate
 7.5% Generally inadequate \ → *Please explain inadequacies in the space provided below.*
 1.7% Very inadequate /

 5.1% No basis to judge

10. In your opinion, to what extent, if at all, are you provided with necessary preparatory materials prior to committee meetings, prior to discussing issues, and prior to deciding on issues? *(Check one box in each row.)*

| Extent to which I am provided with necessary preparatory materials: | | To a very great extent | To a great extent | To a moderate extent | To some extent | To little or no extent | No basis to judge |
|---|----------|------------------------|-------------------|----------------------|----------------|------------------------|-------------------|
| a. prior to committee meetings | N=28,116 | 40.5% | 38.1% | 12.5% | 5.2% | 3.0% | 0.7% |
| b. prior to discussing issues | N=27,828 | 40.8% | 39.7% | 11.5% | 4.7% | 2.0% | 1.2% |
| c. prior to deciding on issues | N=27,729 | 44.3% | 37.3% | 10.9% | 4.0% | 1.9% | 1.6% |

11. Who sets the agenda for your committee's meetings? *(Check all that apply.)*

- 16,347 Committee chairperson
 15,453 Agency official(s) other than the chairperson
 5,093 Committee as a whole
 1,216 Other - Please specify: _____

 1,506 No basis to judge

12. As a committee member, do you generally have access to the information you need to make an informed decision on an issue? *(Check one.)*

N=28,164

- 49.7% In all cases
 43.7% In most cases
 6.0% In some cases \ → *Please explain problems with access to needed information.*
 0.6% In few or no cases /

**Appendix II
Responses to Survey of Federal Advisory
Committee Members**

13. Would you agree or disagree with the following statements as they apply to your committee?
(Check one box in each row.)

| | Strongly agree | Generally agree | Neither agree nor disagree | Generally disagree | Strongly disagree | No basis to judge |
|---|----------------|-----------------|----------------------------|--------------------|-------------------|-------------------|
| a. The committee's membership is fairly balanced in terms of the points of view represented. N=28,264 | 43.6% | 46.1% | 4.3% | 3.4% | 1.4% | 1.2% |
| b. The committee includes a representative cross-section of those directly interested in and affected by the issues discussed by the committee. N=28,037 | 38.9% | 45.6% | 7.4% | 4.4% | 1.7% | 1.9% |

If you checked "Generally disagree" or "Strongly disagree" for a and/or b above, please explain what is lacking in terms of representation.

Access to Key Agency Officials

14. Not including formal committee meetings, how often have you had contact (i.e., in person or by phone or fax) that was related to the purposes of the committee with the following agency officials?
(Check one box in each row.)

| | At least once a month | At least once each 6 months | At least once a year | Less than once a year | Not at all |
|--|-----------------------|-----------------------------|----------------------|-----------------------|------------|
| a. The agency head N=27,028 | 4.5% | 15.2% | 6.9% | 12.5% | 60.9% |
| b. Management level agency officials N=26,631 | 8.7% | 25.8% | 17.7% | 13.7% | 34.1% |
| c. Designated agency officials assigned to your committee N=27,312 | 18.1% | 45.8% | 19.4% | 7.6% | 9.1% |
| d. Agency program officials other than the designated agency official in row c above N=25,833 | 9.2% | 26.6% | 13.7% | 10.5% | 40.0% |
| e. Other agency personnel Specify: _____ N=11,197 | 11.0% | 12.3% | 6.6% | 3.3% | 66.8% |

**Appendix II
Responses to Survey of Federal Advisory
Committee Members**

15. In your opinion, is your level of access to agency officials adequate or inadequate? *(Check one.)*

N=28,115

34.1% More than adequate
57.1% Generally adequate
3.2% Generally inadequate \ → *Please explain access problems in the space below.*
2.4% Very inadequate /

3.3% No basis to judge

16. Over the past year, which of the following statements best describes your committee's meetings in terms of which federal official(s) have been in attendance? *(Check one.)*

N=27,941

73.8% The designated federal official has attended each meeting
20.6% Either the designated federal official or another federal official has attended each meeting
0.7% There were no federal officials in attendance at one or more meetings
5.0% Not sure

17. In terms of formulating committee advice or recommendations, in general, about what level of input is usually provided by committee members and agency officials? *(Check one.)*

N=28,070

58.6% Committee members provide much more input than agency officials
16.9% Committee members provide somewhat more input than agency officials
15.7% Input is about equal
4.5% Agency officials provide somewhat more input than committee members
1.7% Agency officials provide much more input than committee members

2.7% No basis to judge

18. In general, when formulating advice or recommendations, about what level of input by committee members and agency officials do you consider to be about right? *(Check one.)*

N=28,037

56.2% Committee members should provide much more input than agency officials
22.7% Committee members should provide somewhat more input than agency officials
17.5% Input should be about equal
1.6% Agency officials should provide somewhat more input than committee members
0.3% Agency officials should provide much more input than committee members

1.7% No opinion

**Appendix II
Responses to Survey of Federal Advisory
Committee Members**

19. To your knowledge, has an agency official ever asked your committee to give advice or make a recommendation that was based on inadequate data or inadequate analysis of an issue? (Check one.)

N=28,215

- 7.7% Yes →
84.8% No
7.5% Do not know

If yes, indicate the number of times this has happened. . . . _____ Times
Also, briefly describe one or more of these situations in the space below.
N=1,656

1 time = 47.7% 2 times = 29.9% 3 times = 11.7% 4 times = 7.7% 5 times = 3.0%

20. To your knowledge, has an agency official ever asked your committee to give advice or make a recommendation that was contrary to the general consensus of the committee? (Check one.)

N=28,262

- 4.2% Yes →
91.5% No
4.3% Do not know

If yes, indicate the number of times this has happened. . . . _____ Times
Also, briefly describe one or more of these situations in the space below.
N=825

1 time = 71.5% 2 times = 16.9% 3 times = 5.6% "Many times" = 5.9%

Committee's Purpose and Effectiveness

21. Please indicate whether you agree or disagree with each of these statements as they relate to the committee that you are affiliated with. (Check one box in each row.)

| | Strongly agree | Generally agree | Neither agree nor disagree | Generally disagree | Strongly disagree | No basis to judge |
|--|----------------|-----------------|----------------------------|--------------------|-------------------|-------------------|
| a. I am familiar with the purpose of the committee as defined by its charter. N=28,311 | 70.1% | 25.8% | 1.7% | 0.7% | 0.2% | 1.5% |
| b. This committee has a clearly defined purpose. N=28,264 | 67.9% | 25.9% | 3.5% | 1.7% | 0.5% | 0.5% |
| c. This committee has a worthwhile purpose. N=28,121 | 76.6% | 19.6% | 2.2% | 0.5% | 0.2% | 0.8% |
| d. The advice or recommendations that my committee provides through its reports, meetings, and other sources of output are consistent with its purpose. N=28,262 | 65.3% | 28.7% | 2.8% | 1.6% | 0.3% | 1.4% |
| e. The advice or recommendations that my committee provides through its reports, meetings, and other sources of output are timely. N=28,311 | 49.8% | 36.7% | 7.7% | 2.7% | 0.6% | 2.5% |
| f. The agency takes committee advice and recommendations into account when developing policy or making changes in operations. N=28,169 | 37.5% | 35.2% | 11.2% | 2.2% | 1.4% | 12.5% |

**Appendix II
Responses to Survey of Federal Advisory
Committee Members**

22. In your opinion, to what extent, if at all, has the number of meetings that your committee has held or is holding been adequate for your committee to (a) achieve its purpose as defined by its charter, and (b) thoroughly discuss its recommendations and advice? (Check one box in each row.)

| Extent to which the number of meetings has been adequate to: | | To a very great extent | To a great extent | To a moderate extent | To some extent | To little or no extent | No basis to judge |
|--|---|------------------------|-------------------|----------------------|----------------|------------------------|-------------------|
| a. | achieve the committee's purpose N=28,212 | 42.2% | 35.0% | 12.0% | 5.2% | 1.9% | 3.7% |
| b. | thoroughly discuss its recommendations and advice N=27,974 | 39.3% | 33.3% | 15.3% | 6.6% | 2.8% | 2.8% |

-Instruction Box -

If your committee has disbanded, or is in the process of disbanding, or you were on a one-time review panel that will not meet again → **Go to question 24.**

All others → **Continue with question 23.**

23. Do you agree or disagree with the following statements as they relate to your committee? (Check one box in each row.)

| | Strongly agree | Generally agree | Neither agree nor disagree | Generally disagree | Strongly disagree | No basis to judge |
|---|----------------|-----------------|----------------------------|--------------------|-------------------|-------------------|
| a. This committee should be <u>disbanded</u> because it has already accomplished its purpose. N=19,938 | 1.2% | 0.7% | 2.2% | 9.2% | 84.3% | 2.4% |
| b. This committee should be <u>disbanded</u> because it is unable to accomplish its purpose. N=19,845 | 0.7% | 0.7% | 2.9% | 9.9% | 83.9% | 1.9% |
| c. This committee should be <u>continued</u> because it has not yet accomplished its purpose. N=18,626 | 47.5% | 22.1% | 15.1% | 3.0% | 6.6% | 5.6% |
| d. This committee should be <u>continued</u> because the agency seriously considers the committee's advice and recommendations. N=19,721 | 55.3% | 24.3% | 13.0% | 1.6% | 1.6% | 4.1% |
| e. This committee should be <u>continued</u> because it is successfully fulfilling a continuing purpose. N=19,717 | 66.5% | 23.2% | 5.7% | 1.7% | 1.4% | 1.5% |
| f. In general, the agency is soliciting advice or recommendations from this committee. N=19,891 | 54.2% | 32.8% | 6.2% | 1.0% | 2.4% | 3.5% |
| g. In general, the agency is considering the advice or recommendations this committee provides. N=19,700 | 54.7% | 29.4% | 8.4% | 2.0% | 1.4% | 4.1% |

**Appendix II
Responses to Survey of Federal Advisory
Committee Members**

Public Participation

24. Which of the following best describes your committee's meetings with respect to public access? *(Check one.)*
N=28,163

- 26.7% All meetings are totally open to the public → *Skip to question 27.*
7.3% Some meetings are open to the public and some are closed \
11.8% A portion of the meetings are closed to the public → *Continue with question 25.*
36.8% All meetings are totally closed to the public /
17.4% Not sure → *Skip to question 27.*

25. For which of the following reasons are some or all of your committee's meetings closed or partially closed to the public? *(Check all that apply.)*

- 3,667 Discussions involving trade secrets \
1,293 Discussions involving national security or foreign policy \
4,393 Discussions involving personal privacy (invasion of privacy issues) → *Continue with qst. 26.*
1,165 Discussions involving internal agency personnel rules /
6,308 Other reason(s) - Please specify: _____ /

1,841 Do not know → *Skip to question 27.*

26. Do you agree or disagree with the reasons you indicated in question 25 above for closed or partially closed meetings? *(Check one.)*
N=13,557

- 97.5% Agree
2.5% Disagree → Why do you disagree? _____

27. Are members of the public ever allowed to express their views to your committee? *(Check one.)*
N=28,016

- 44.4% Yes → *Skip to question 29.*
30.5% No \
25.0% Not sure / → *Continue with question 28.*

28. Do you believe the public should be given the opportunity to express their views to your committee?
(Check one.)
N=15,100

- 18.9% Yes \
81.1% No / → *Go directly to the instruction box appearing after question 30.*

**Appendix II
Responses to Survey of Federal Advisory
Committee Members**

29. By what means do the public express their views to your committee? *(Check all that apply.)*

- 7,663 Written statements
- 9,702 In person
- 1,139 Other means - Please specify: _____
- 512 Do not know

30. In your opinion, to what extent, if at all, is the public provided sufficient opportunity to express its views before your committee? *(Check one.)*

N=11,735

- 29.1% To a very great extent
- 29.4% To a great extent
- 18.6% To a moderate extent
- 7.9% To some extent
- 5.3% To little or no extent
-
- 9.7% No basis to judge

- Instruction box -

If all of your committee's meetings are totally closed to the public → **Skip to question 34.**
All others → **Continue with question 31.**

31. For committee meetings that were totally or partially open to the public, were members of the public who may have been interested in attending the meetings adequately informed of the following? *(Check one box in each row.)*

| Was the public adequately informed of . . . | | Yes | No | Do not know |
|---|----------|-------|------|-------------|
| a. the time and location of the meeting? | N=14,468 | 50.6% | 1.7% | 47.7% |
| b. the purpose and agenda of the meeting? | N=14,468 | 47.7% | 2.4% | 49.9% |
| c. <u>Also</u> , was the publicity for the meeting(s) provided sufficiently in advance of the meeting for the public to make plans to attend? | N=14,468 | 45.4% | 2.5% | 52.1% |

32. For committee meetings that were totally or partially open to the public, in your opinion, were they held in places and at times that were reasonably accessible for the public to attend? *(Check one.)*

N=13,622

- 96.4% Yes
- 3.6% No → *Please provide an example of a meeting that was not reasonably accessible to the public.*

**Appendix II
Responses to Survey of Federal Advisory
Committee Members**

33. For committee meetings that are totally or partially open to the public, typically, about how many members of the public attend a meeting? *(Check one.)*
N=13,983

- 16.3% None
- 20.0% 1 to 5
- 13.4% 6 to 10
- 8.6% 11 to 20
- 20.0% More than 20
-
- 21.6% Not sure

Subcommittees *(Subcommittees do not include subgroups formed in the course of a single meeting.)*

34. Does the committee identified on the label on page 1 have any subcommittees, or other continuing subgroups?
(Check one.)
N=27,589

- 34.4% Yes → *Continue with question 35.*
- 65.6% No → *Skip to question 38.*

35. Have you been a member of any of these subcommittees over the past year? *(Check one.)*
N=9,693

- 68.0% Yes → Enter the number of subcommittees you have been a member of _____, then *Continue with question 36.*
 - 32.0% No → *Skip to question 38.*
- N=5,537 1 subcommittee = 50.2%
 2 subcommittees = 31.9%
 3 subcommittees = 8.5%
 More than 3 subcommittees = 9.4%

36. For each subcommittee you have been a member of over the past year, please answer the following questions.
(If you have been a member of more than 4 subcommittees, answer for the 4 subcommittees in which you have been the most active.)

| | Subcommittee #1 | Subcommittee #2 | Subcommittee #3 | Subcommittee #4 |
|--|-------------------------------------|-------------------------------------|-----------------------------------|-------------------------------------|
| a. Over the past year, how frequently has the subcommittee met? | Mean = 3.0 Median = 2 N=6,343 | Mean = 3.3 Median = 3 N=2,856 | Mean = 3.3 Median = 2 N=942 | Mean = 4.8 Median = 3.5 N=374 |
| b. Including yourself, how many members served on each subcommittee at the time you were a member? | Mean = 8.8 Median = 6 N=6,393 | Mean = 9.0 Median = 6 N=2,711 | Mean = 9.2 Median = 7 N=943 | Mean = 10.1 Median = 9 N=375 |

**Appendix II
Responses to Survey of Federal Advisory
Committee Members**

37. Again, thinking about all of the subcommittees that you have been a member of over the past year, please indicate whether the following procedures were followed for the subcommittee meetings that you attended.
(Check one box in each row.)

| Procedures | These procedures were followed at . . . | | | | |
|---|---|----------------------------|----------------------------|--------------------------|-------------|
| | all subcommittee meetings | most subcommittee meetings | some subcommittee meetings | no subcommittee meetings | Do not know |
| a. Notice of the meeting was provided in the Federal Register. N=6,244 | 14.9% | 0.8% | 1.5% | 18.7% | 64.1% |
| b. Detailed minutes of meeting were kept. N=6,312 | 52.5% | 6.9% | 8.0% | 15.3% | 17.4% |
| c. Members of the public were given access to the meeting. N=6,343 | 37.1% | 3.6% | 3.9% | 29.5% | 26.0% |
| d. Members of the public were allowed to provide input, either in writing or in person. N=6,294 | 40.0% | 5.3% | 7.9% | 24.6% | 22.3% |
| e. The designated federal officer was in attendance at the meeting. N=6,343 | 54.5% | 15.9% | 10.6% | 14.4% | 4.6% |
| f. The meeting was approved or called for by the designated federal official. N=6,343 | 66.1% | 5.8% | 3.1% | 10.2% | 14.8% |

Comments

38. If you have any additional comments regarding any previous question or comments concerning any aspect of federal advisory committees, please use the space provided below. If necessary, you may add additional sheets.

Thank you for your assistance. Please return your questionnaire in the enclosed return envelope.

Mandated Advisory Committees That Agencies Believed Should Be Terminated

| Agency | Mandated advisory committee |
|---|---|
| Department of Agriculture | Brule River (Wisconsin and Michigan) Study Committee |
| | Northern Allegheny Wild and Scenic River Advisory Council |
| | Southern Allegheny Wild and Scenic River Advisory Council |
| Department of Defense | Department of Defense Government-Industry Advisory Committee on the Operation and Modernization of the National Defense Stockpile |
| Department of Energy | Technical Advisory Committee on Verification of Fissile Material and Nuclear Warhead Control |
| | Technical Panel on Magnetic Fusion |
| Department of Health and Human Services | Advisory Council on Hazardous Substances Research and Training |
| | End-Stage Renal Disease Data Advisory Committee |
| | Federal Council on the Aging |
| | Federal Hospital Council |
| | National Advisory Board on Arthritis and Musculoskeletal and Skin Diseases |
| | National Commission on Alcoholism and Other Alcohol-Related Problems |
| | Deafness and Other Communication Disorders Advisory Board |
| | National Diabetes Advisory Board |
| | National Digestive Diseases Advisory Board |
| | National Kidney and Urologic Diseases Advisory Board |
| Department of the Interior | Task Force on Aging Research |
| | San Francisco Maritime National Historical Park Advisory Commission |
| | Santa Fe National Historic Trail Advisory Council |
| | Sleeping Bear Dunes National Lakeshore Advisory Commission |
| Department of Transportation | Trail of Tears National Historic Trail Advisory Council |
| | National Driver Register Advisory Committee |
| | National Highway Safety Advisory Committee |
| | Commercial Motor Vehicle Safety Regulatory Review Panel |
| | Transit Industry Technology Development Advisory Committee |
| National Recreational Trails Advisory Committee | |

Source: Responses to GAO's federal advisory committees agency questionnaire.

Responses to Federal Advisory Committees Agency Questionnaire

GAO

United States General Accounting Office

**Federal Advisory Committees
Agency Questionnaire**

Introduction

GAO has been asked by the Chairman of the House Subcommittee on Government Management, Information, and Technology, Committee on Government Reform and Oversight, and the Ranking Minority Member of the Senate Committee on Governmental Affairs to obtain information from executive branch agencies regarding the implementation of the Federal Advisory Committee Act (FACA). The requesters want to know whether FACA is achieving its intended purpose and whether changes are needed to the law. We are sending this questionnaire to all federal departments, as well as to other independent agencies that had 10 or more federal advisory committees during fiscal year 1996, to collect this information.

Please complete the questionnaire and return it to us, along with the requested information, within 30 days of receipt at the address listed below. You may fax your response to us on (202) 512-4516, to the attention of Ronald J. Cormier and follow up the response with copies of any additional information by mail or courier. Please ensure that we receive the information no later than 30 days after receipt of this questionnaire.

U.S. General Accounting Office
Attention: Ronald J. Cormier
441 G Street NW, Room 2908
Washington, DC 20548

If you have any questions, please call Ron Cormier at (202) 512-5027 or Steve Berke at (202) 512-8779.

Thank you for your cooperation.

Please provide the following information:

Department/Agency: _____

Name of person completing survey: _____

Title of person completing survey: _____

Telephone number: (_____) _____

Fax number: (_____) _____

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

1. Does your agency have regulations governing the use of advisory committees? *(Check one.)*

- 4 Yes → Please cite the applicable Code of Federal Regulations (CFR) _____
- 15 No

2. In addition or in place of the above regulations, does your agency have additional instructions/guidance for advisory committees? *(Check one.)*

- 15 Yes → Please return a copy along with the completed questionnaire.
- 4 No

3. Does your agency provide any training (i.e., hold classes or distribute educational materials) concerning FACA and its provisions? *(Check one.)*

- 13 Yes → Please briefly describe your agency's FACA training, including who in your agency receives it. Also, please provide examples of training materials that you consider most essential.
- 6 No

4. Besides advisory committees, in what other ways does your agency get advice from the public?

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

5. One of FACA's intended purposes was to open government to the public. Has FACA prohibited your agency from receiving or soliciting input from public task forces, public working groups, or public forums on issues or concerns of the agency? *(Check one.)*

3 Yes → Please explain: _____
 16 No _____

6. Executive Order 12838, dated February 10, 1993, called for a reduction in the number of discretionary committees by one-third and established ceilings for each agency.

Please provide the number of discretionary committees that was set as your agency's ceiling for fiscal years 1995, 1996, and 1997 as well as the actual number of discretionary committees that existed at the end of these fiscal years. *(Enter numbers.)*

| | FY 1995 | FY 1996 | FY 1997 |
|---|---|---|---|
| Agency's ceiling of discretionary committees | Mean = 26.5 Median = 12.0 Total = 504 | Mean = 24.7 Median = 12.0 Total = 470 | Mean = 25.1 Median = 12.0 Total = 476 |
| Actual number of discretionary committees that existed at the end of each fiscal year | Mean = 23.5 Median = 13.0 Total = 446 | Mean = 23.6 Median = 12 Total = 448 | Mean = 23.7 Median = 12.0 Total = 450 |

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

7. In fiscal years 1995, 1996, and 1997, did your agency seek OMB approval to establish a committee that would place your agency over its ceiling of discretionary committees? *(Check one.)*

16 No → *Go to question 8.*

3 Yes → Please provide the following information for all of these requests:
(If necessary, add additional sheets)

| Name & purpose of committee | The date of the request (Mo/Yr) | Accepted or rejected by OMB | If rejected, please provide: ● OMB's stated reason(s) for rejection, and ● any negative impact(s) on your agency's ability to accomplish its mission |
|-----------------------------|---------------------------------|--|--|
| | ___/___ | <input type="checkbox"/> Accepted <input type="checkbox"/> Rejected | There were 4 requests made by 3 departments. All 4 requests were accepted by OMB. |
| | ___/___ | <input type="checkbox"/> Accepted <input type="checkbox"/> Rejected | |
| | ___/___ | <input type="checkbox"/> Accepted <input type="checkbox"/> Rejected | |
| | ___/___ | <input type="checkbox"/> Accepted <input type="checkbox"/> Rejected | |
| | ___/___ | <input type="checkbox"/> Accepted <input type="checkbox"/> Rejected | |
| | ___/___ | <input type="checkbox"/> Accepted <input type="checkbox"/> Rejected | |

Continued on next page.

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

Question 7 (Continued)

| Name & purpose of committee | The date of the request (Mo/Yr) | Accepted or rejected by OMB | If rejected, please provide: ● OMB's stated reason(s) for rejection, and ● any negative impact(s) on your agency's ability to accomplish its mission |
|-----------------------------|---------------------------------|--|--|
| | ____/____ | <input type="checkbox"/> Accepted <input type="checkbox"/> Rejected | |
| | ____/____ | <input type="checkbox"/> Accepted <input type="checkbox"/> Rejected | |
| | ____/____ | <input type="checkbox"/> Accepted <input type="checkbox"/> Rejected | |
| | ____/____ | <input type="checkbox"/> Accepted <input type="checkbox"/> Rejected | |

8. Has the ceiling placed on the number of discretionary committees deterred your agency from seeking to establish any new discretionary committees? (Check one.)

12 No → Go to question 9.

7 Yes → Please describe how the ceiling has affected your agency's ability to accomplish its mission.

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

9. In fiscal years 1995, 1996, and 1997, did your agency make a formal request to OMB or to Congress that an advisory committee required by statute be terminated? *(Check one.)*

16 No → *Go to question 10.*

3 Yes → Please provide the information requested below. *(If necessary, add additional sheets.)*

a) For requests for termination that were made in fiscal years 1995, 1996 and 1997 where the committee was terminated, please provide:

| Name of the committee | Purpose of the committee <i>(If necessary, add additional sheets)</i> | The request to terminate was initially made to . . . |
|-----------------------|--|---|
| | One department made 1 request to Congress. | <input type="checkbox"/> Congress <input type="checkbox"/> OMB |
| | | <input type="checkbox"/> Congress <input type="checkbox"/> OMB |
| | | <input type="checkbox"/> Congress <input type="checkbox"/> OMB |
| | | <input type="checkbox"/> Congress <input type="checkbox"/> OMB |

b) For requests for termination that were made in fiscal years 1995, 1996, and 1997, where the committee still exists, please provide:

| Name of the committee | Purpose of the committee <i>(If necessary, add additional sheets)</i> | The request to terminate was initially made to . . . |
|-----------------------|--|---|
| | Three departments made a total of 17 requests. Three requests were made to Congress and four requests were made both to Congress and OMB. | <input type="checkbox"/> Congress <input type="checkbox"/> OMB |
| | | <input type="checkbox"/> Congress <input type="checkbox"/> OMB |
| | | <input type="checkbox"/> Congress <input type="checkbox"/> OMB |
| | | <input type="checkbox"/> Congress <input type="checkbox"/> OMB |

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

10. To what extent, if at all, has the requirement that committees required by statute can only be terminated by Congress been burdensome to your agency? *(Check one.)*

- 0 To a very great extent
- 1 To a great extent
- 3 To a moderate extent
- 3 To some extent
- 12 To little or no extent

If you checked box 1 through 4 above, please explain how this requirement has been burdensome to your agency.

Also, please provide any suggestions you may have to alleviate this burden to your agency.

11. Does your agency have any committee(s) required by statute that your agency believes should be terminated? *(Check one.)*

- 6 Yes → Please list the names of this (these) committee(s) below..
- 13 No

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

12. To what extent, if at all, does your agency believe that a sunset/automatic termination requirement for committees required by statute would be helpful? *(Check one.)*

- 4 To a very great extent
- 3 To a great extent
- 3 To a moderate extent
- 2 To some extent
- 7 To little or no extent

13. For each of the following FACA requirements as they apply to federal advisory committees, please indicate the extent to which your agency finds them burdensome, the extent to which it finds them useful, and changes, if any, that your agency would desire. *(If necessary add additional sheets.)*

| | | | | | | | | | | |
|--|---|------------|---|-------|---|----------|---|------|----|--------------|
| a. Agency determination of committee need | | | | | | | | | | |
| Extent to which this requirement is burdensome . . . | 0 | Very great | 0 | Great | 2 | Moderate | 5 | Some | 12 | Little or no |
| Extent to which this requirement is useful | 8 | Very great | 3 | Great | 6 | Moderate | 0 | Some | 2 | Little or no |
| Changes: | | | | | | | | | | |
| b. Preparation of charter and letter to GSA | | | | | | | | | | |
| Extent to which this requirement is burdensome . . . | 1 | Very great | 1 | Great | 6 | Moderate | 5 | Some | 5 | Little or no |
| Extent to which this requirement is useful | 3 | Very great | 2 | Great | 7 | Moderate | 4 | Some | 2 | Little or no |
| Changes: | | | | | | | | | | |
| c. Consultation with GSA before charter filing | | | | | | | | | | |
| Extent to which this requirement is burdensome . . . | 1 | Very great | 0 | Great | 5 | Moderate | 3 | Some | 9 | Little or no |
| Extent to which this requirement is useful | 4 | Very great | 5 | Great | 3 | Moderate | 3 | Some | 3 | Little or no |
| Changes: | | | | | | | | | | |
| d. Federal Register notice before charter filing | | | | | | | | | | |
| Extent to which this requirement is burdensome . . . | 0 | Very great | 1 | Great | 6 | Moderate | 4 | Some | 8 | Little or no |
| Extent to which this requirement is useful | 2 | Very great | 4 | Great | 5 | Moderate | 4 | Some | 4 | Little or no |
| Changes: | | | | | | | | | | |
| e. Filing charter with Congress, Library of Congress, and GSA | | | | | | | | | | |
| Extent to which this requirement is burdensome . . . | 0 | Very great | 1 | Great | 6 | Moderate | 2 | Some | 10 | Little or no |
| Extent to which this requirement is useful | 1 | Very great | 4 | Great | 5 | Moderate | 4 | Some | 5 | Little or no |
| Changes: | | | | | | | | | | |

Question 13 continued on next page.

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

Question 13 - Continued - Please indicate the extent to which your agency finds these FACA requirements burdensome, the extent to which it finds them useful, and changes, if any, that your agency would desire.
(If necessary add additional sheets.)

| | | | | | | | | | | |
|--|----|------------|----|-------|----|----------|---|------|----|--------------|
| f. Agency plan for fairly balanced membership | | | | | | | | | | |
| Extent to which this requirement is burdensome. | 2 | Very great | 0 | Great | 9 | Moderate | 5 | Some | 3 | Little or no |
| Extent to which this requirement is useful | 7 | Very great | 9 | Great | 2 | Moderate | 1 | Some | 0 | Little or no |
| Changes: | | | | | | | | | | |
| g. Federal Register notice of committee meetings | | | | | | | | | | |
| Extent to which this requirement is burdensome. | 0 | Very great | 2 | Great | 4 | Moderate | 7 | Some | 6 | Little or no |
| Extent to which this requirement is useful | 6 | Very great | 5 | Great | 3 | Moderate | 2 | Some | 3 | Little or no |
| Changes: | | | | | | | | | | |
| h. Procedures for closing meetings | | | | | | | | | | |
| Extent to which this requirement is burdensome. | 0 | Very great | 0 | Great | 6 | Moderate | 8 | Some | 5 | Little or no |
| Extent to which this requirement is useful | 1 | Very great | 4 | Great | 8 | Moderate | 2 | Some | 4 | Little or no |
| Changes: | | | | | | | | | | |
| i. Detailed minutes of meetings | | | | | | | | | | |
| Extent to which this requirement is burdensome. | 1 | Very great | 3 | Great | 10 | Moderate | 3 | Some | 2 | Little or no |
| Extent to which this requirement is useful | 3 | Very great | 10 | Great | 3 | Moderate | 2 | Some | 1 | Little or no |
| Changes: | | | | | | | | | | |
| j. Public access and participation at meetings | | | | | | | | | | |
| Extent to which this requirement is burdensome. | 0 | Very great | 0 | Great | 1 | Moderate | 6 | Some | 12 | Little or no |
| Extent to which this requirement is useful | 8 | Very great | 5 | Great | 3 | Moderate | 2 | Some | 1 | Little or no |
| Changes: | | | | | | | | | | |
| k. Assurance of compliance by committee members with government ethics regulations | | | | | | | | | | |
| Extent to which this requirement is burdensome. | 2 | Very great | 2 | Great | 5 | Moderate | 4 | Some | 6 | Little or no |
| Extent to which this requirement is useful | 5 | Very great | 8 | Great | 3 | Moderate | 1 | Some | 2 | Little or no |
| Changes: | | | | | | | | | | |
| l. Appointing agency committee management officer and designated federal officer for each committee | | | | | | | | | | |
| Extent to which this requirement is burdensome. | 0 | Very great | 0 | Great | 1 | Moderate | 6 | Some | 12 | Little or no |
| Extent to which this requirement is useful | 10 | Very great | 4 | Great | 3 | Moderate | 2 | Some | 0 | Little or no |
| Changes: | | | | | | | | | | |

Question 13 continued on next page.

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

Question 13 - Continued - Please indicate the extent to which your agency finds these FACA requirements burdensome, the extent to which it finds them useful, and changes, if any, that your agency would desire. (If necessary add additional sheets.)

m. Record keeping requirements

Extent to which this requirement is burdensome... 0 Very great 2 Great 11 Moderate 4 Some 2 Little or no
Extent to which this requirement is useful 4 Very great 9 Great 5 Moderate 0 Some 1 Little or no

Changes:

n. Follow-up to Congress on presidential advisory committee recommendations

Extent to which this requirement is burdensome... 1 Very great 0 Great 3 Moderate 5 Some 4 Little or no 6 N/A
Extent to which this requirement is useful 1 Very great 3 Great 3 Moderate 3 Some 3 Little or no 6 N/A

Changes:

o. Annual reports to GSA on new, continuing, and terminated advisory committees

Extent to which this requirement is burdensome... 5 Very great 1 Great 6 Moderate 6 Some 1 Little or no
Extent to which this requirement is useful 2 Very great 2 Great 7 Moderate 5 Some 3 Little or no

Changes:

p. Annual report on closed meetings

Extent to which this requirement is burdensome... 2 Very great 1 Great 2 Moderate 5 Some 8 Little or no 1 N/A
Extent to which this requirement is useful 1 Very great 3 Great 1 Moderate 5 Some 8 Little or no 1 N/A

Changes:

q. Filing committee reports with the Library of Congress

Extent to which this requirement is burdensome... 2 Very great 1 Great 4 Moderate 5 Some 7 Little or no
Extent to which this requirement is useful 0 Very great 1 Great 5 Moderate 6 Some 7 Little or no

Changes:

r. Other requirement - Please specify: "Advisory Committee Management Plans, required by OMB Cir. A-135"

Extent to which this requirement is burdensome... 0 Very great 1 Great 0 Moderate 0 Some 0 Little or no
Extent to which this requirement is useful 0 Very great 0 Great 0 Moderate 0 Some 1 Little or no

Changes:

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

14. GSA regulations require that membership of committees be fairly balanced in terms of points of view represented and functions to be performed by the committees.

a) What means does your agency use to ensure that committees be fairly balanced in terms of points of view and functions performed?

b) Are the means described above contained in agency regulations, guidance, or policy? *(Check one.)*

14 Yes → Please cite the applicable CFR or agency regulations or guidance. _____
5 No

15. FACA requires that specific information be published in the Federal Register to notify interested parties of: (1) the establishment, reestablishment, or renewal of discretionary advisory committees, and (2) the scheduled date, time, and location of discretionary and non-discretionary committee meetings.

a) Does your agency use methods in addition to the Federal Register to notify the public of the establishment, reestablishment, or renewal of discretionary advisory committees? *(Check one.)*

10 Yes → In the space below, please list these other methods.
8 No
1 NA

b) Does your agency use methods in addition to the Federal Register to notify the public of the scheduled date, time, and location of discretionary and non-discretionary committee meetings? *(Check one.)*

15 Yes → In the space below, please list these other methods.
4 No

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

Fifteen days advance notice in the Federal Register is required for committee meetings. Less than 15 days notice may be given in exceptional circumstances.

16. During fiscal years 1995, 1996, and 1997, has your agency given less than a 15-day advance notice for a committee meeting? *(Check one.)*

4 No → *Go to question 17.*

1 Information not available → *Go to question 17.*

14 Yes → In the space below, please indicate how many times this has occurred from FY 1995 through FY 1997, and for what reason(s).

This has occurred _____ times during this time period. Total=153 Mean=13.9
Median=5 (N=11)

For the following reasons: _____

17. In fiscal year 1997, how much did your agency spend for Federal Register notices required by FACA to notify interested parties of: (1) the establishment, reestablishment, or renewal of discretionary advisory committees, and (2) the scheduled date, time, and location of discretionary and non-discretionary committee meetings? *(Enter the dollar amount and indicate whether the entry is an actual amount or an estimate.)*

\$ _____ for Federal Register notices of the establishment, reestablishment, or renewal of discretionary advisory committees.

Total=\$17,601 Mean=\$1,173 Median=\$900 (N=15)

The amount entered above is: *(Check one.)* The actual amount = 2 An estimate = 13

\$ _____ for Federal Register notices of the scheduled date, time, and location of discretionary and non-discretionary committee meetings.

Total=\$516,752 Mean=\$34,450 Median=\$10,000 (N=15)

The amount entered above is: *(Check one.)* The actual amount = 0 An estimate = 15

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

18. If you indicated in question 15 that your agency uses methods other than the Federal Register to notify the public about either (1) the establishment, reestablishment, or renewal of discretionary advisory committees or, (2) the scheduled date, time, and location of discretionary and non-discretionary committee meetings, please enter the amount your agency spent for these notifications in fiscal year 1997. *(Enter the dollar amount and indicate whether the entry is an actual amount or an estimate.)*

\$ _____ for non-Federal Register notices of the establishment, reestablishment, or renewal of discretionary advisory committees.

Total=\$4,520 Mean=\$502 Median=\$50 (N=9)

The amount entered above is: *(Check one.)* The actual amount = 3 An estimate = 6

\$ _____ for non-Federal Register notices of the scheduled date, time, and location of discretionary and non-discretionary committee meetings.

Total=\$68,474 Mean=\$6,225 Median=\$1,500 (N=11)

The amount entered above is: *(Check one.)* The actual amount = 1 An estimate = 10

For the following questions, when we use the term “subcommittee” we mean a subgroup of a full committee. A subcommittee does not have its own federal charter.

19. In the table below, please indicate for fiscal years 1995, 1996, and 1997: a) the number of subcommittees in your agency that reported to full committees; b) the number of subcommittee meetings that were held and were covered by FACA; and c) the number of these subcommittee meetings that were fully or partially open to the public. *(Enter numbers. If none, enter 0.)*

| Number of . . . | FY 1995 | FY 1996 | FY 1997 |
|--|---|---|---|
| a. subcommittees that report to full committees | Mean = 28.5 Median = 20.0 Total = 428 | Mean = 23.9 Median = 20.0 Total = 358 | Mean = 27.2 Median = 21.0 Total = 463 |
| b. subcommittee meetings that were held and were covered by FACA | Mean = 50.4 Median = 14.0 Total = 756 | Mean = 34.7 Median = 14.0 Total = 521 | Mean = 39.8 Median = 21.0 Total = 677 |
| c. subcommittee meetings that were fully or partially open to the public | Mean = 42.7 Median = 14.0 Total = 640 | Mean = 32.5 Median = 20 Total = 487 | Mean = 34.0 Median = 20.0 Total = 578 |

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

20. In addition to those subcommittee meetings noted in question 19 above, please indicate how many subcommittee meetings were held by your agency for fiscal year 1997 that were not covered by FACA. (Enter number and indicate whether the entry is an actual number or an estimate. If none, enter 0.)

Mean = 20.8 Median = 1 Total = 249

_____ Subcommittee meetings not under FACA in FY 1997 - or - Don't know = 7

The number entered above is: (Check one.) The actual number = 8 An estimate = 4

NOTE: If the number entered above is 0 or "Don't know" was checked → Skip to question 23.

21. For those subcommittee meetings held that were not covered by FACA, for which of the following purposes were they held? (Check all that apply.)

- 5 Research
- 8 Information gathering
- 5 Analysis
- 8 Draft position paper
- 5 Site visits
- 1 Other purpose(s) - Please specify: _____ Information distribution _____

22. Even though the subcommittee meeting(s) noted in question 20 were not covered under FACA, please indicate whether the FACA requirements listed below were followed at these meetings. (Check one box in each row.)

| FACA Requirements: | These FACA requirements were followed at . . . | | | | |
|--|--|----------------------------|----------------------------|--------------------------|------------|
| | all subcommittee meetings | most subcommittee meetings | some subcommittee meetings | no subcommittee meetings | Don't know |
| a. Federal Register notice of meeting | 1 | 1 | 3 | 3 | 0 |
| b. Detailed minutes of meeting were kept | 1 | 2 | 5 | 0 | 0 |
| c. Public access and participation at meeting | 1 | 1 | 4 | 2 | 0 |
| d. Designated federal officer was in attendance at meeting | 3 | 2 | 3 | 0 | 0 |
| e. Meeting approved or called for by designated federal official | 3 | 1 | 4 | 0 | 0 |

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

Advance notice (15 days) in the Federal Register for discretionary committee establishments and reestablishments is required before the committee charter is filed with the appropriate House and Senate committees, the Library of Congress, and GSA. Agencies can request GSA to reduce the 15-day waiting period when requested for good cause. Notice of discretionary committee renewals may be published concurrently with the charter filing.

23. During fiscal years 1995, 1996, and 1997, has your agency requested a reduction in the 15-day waiting period for giving advance notice for establishing or reestablishing a discretionary committee from GSA? *(Check one.)*

17 No → *Go to question 24.*

- 2 Yes → In the space below, please indicate how many such requests were made and how many were granted from FY 1995 through FY 1997 and for what reasons.

 5 Requests were made

 4 Requests were granted

Requests were made for the following reasons: _____

24. FACA requires that detailed minutes be kept for each committee meeting.

Does your agency have regulations or guidance concerning the requirements for keeping minutes? *(Check one.)*

5 No → *Go to question 25.*

- 14 Yes → Please cite applicable CFR or agency regulations or guidance.

25. Which of the following statements best describes the minutes of the advisory committee meetings in your agency? *(Check one.)*

1 Verbatim transcript of meeting

11 Summary of matters discussed

0 Other - Please specify: _____

6 Verbatim and summary checked

1 Summary and other checked

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

26. According to GSA regulations, agencies determine if members of the public can speak at committee meetings.

Does your agency currently permit members of the public to speak before advisory committees?
(If some committees do permit the public to speak while others do not, check both yes and no and answer all follow-up questions.)

14 **Yes** → In the space provided below, please provide the following information:

a) Please cite agency CFR or agency regulations or guidance.

b) The restrictions, if any, that are placed on individuals speaking before agency committees? *(If no restrictions, enter "none".)*

0 **No** → Please explain the agency's rationale for not allowing individuals to speak.

5 **Yes and No**

Is this rationale for not allowing individuals to speak addressed in agency regulations or guidance? *(Check one.)*

3 **Yes** → Please cite applicable agency CFR, or agency regulations, or guidance:

2 **No**

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

27. To what extent, if at all, does the possibility of litigation over compliance with FACA requirements inhibit your agency from forming new advisory committees? *(Check one.)*

- 0 To a very great extent
- 0 To a great extent
- 2 To a moderate extent
- 0 To some extent
- 14 To little or no extent

3 No basis to judge

If you checked box 1 through 4 above, please briefly explain the following:

a. What was the inhibiting concern? _____

b. What changes, if any, does your agency think should be made to FACA to resolve this concern?

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

28. During the period from FY 1995 through FY 1997, has your agency **decided not to form** a new advisory committee because of the possibility of future litigation over compliance with FACA? *(Check one.)*

0 Yes → *Answer a. through d. below, then, continue with question 29.*

17 No → *Go to question 29.*

2 Information not available → *Go to question 29.*

If yes, please describe:

a. The number of times from FY 1995 through FY 1997 this has happened. . . . 0 **Times**

b. The purpose(s) of the unformed committee(s). _____

c. The specific FACA requirements at issue. _____

d. How the agency got public input instead of through an advisory committee. _____

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

29. During the period from FY 1995 through FY 1997, has your agency been litigated against concerning compliance with FACA (litigation could involve a challenge to a policy decision which was allegedly made in violation of FACA requirements)? *(Check one.)*

7 Yes → *Answer a. through g. below, then, continue with question 30.*

12 No → *Go to question 30.*

If yes, please describe:

a. The number of times from FY 1995 through FY 1997 this has happened. . . . 13 Times

b. The specific FACA requirement(s) at issue. _____

c. Whether the litigation concerned existing or proposed advisory committee(s). _____

d. The name(s) of the advisory committee(s). _____

e. The court decision citation(s) or outcome(s) of the litigation, if no court decision(s).

(Continued on next page.)

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

Question 29 (Continued)

f. The finding(s) of the court (if litigation is not ongoing). _____

g. How the litigation has affected the way your agency forms and/or operates advisory committees.

30. To what extent, if at all, does the possibility of litigation over compliance with FACA requirements inhibit your agency from getting input from outside parties? (Check one.)

- 1 To a very great extent
- 0 To a great extent
- 1 To a moderate extent
- 6 To some extent
- 10 To little or no extent

1 No basis to judge

If you checked box 1 through 4 above, please briefly explain the following:

a. What was the inhibiting concern? _____

b. What changes, if any, does your agency think should be made to FACA to resolve this concern?

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

31. During the period from FY 1995 through FY 1997, has your agency **decided not to** receive or solicit input from public task forces, working groups, public forums, or other outside parties on issues or concerns of the agency because of the possibility of future litigation over compliance with FACA? *(Check one.)*

6 Yes → *Answer a. through c. below, then, continue with question 32.*

11 No → *Go to question 32.*

2 Information not available → *Go to question 32.*

If yes, please describe:

a. The number of times from FY 1995 through FY 1997 this has happened. . . . More than 8 Times

b. The issue(s) or concern(s) of the agency. _____

c. What changes, if any, does your agency think should be made to FACA to resolve this concern?

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

Peer review panels are used for such activities as evaluating research or other grants for federal funding, contracts, etc..

32. Does your agency use peer review panels, under FACA, to evaluate research grants and/or non-research grants for federal funding, or for any other use? *(Check one box in each row.)*

| | Yes | No | Don't know |
|---|-----|----|------------|
| a. Research grants | 6 | 12 | 1 |
| b. Non-research grants | 5 | 12 | 2 |
| c. Other - Please specify: Policy issues, technical merit issues, facilities and fellowships | 3 | 0 | 0 |

Instructions: *If you answered "Yes" for row a, b, or c above → Continue with question 33.
If you answered "No" or "Don't know" for all rows → Skip to question 38.*

33. To what extent, if at all, does FACA discourage your agency's reliance on peer review panels to evaluate research grants and/or non-research grants for federal funding, or for any other use? *(Check one box in each row.)*

| | To a very great extent | To a great extent | To a moderate extent | To some extent | To little or no extent | No basis to judge |
|---|------------------------|-------------------|----------------------|----------------|------------------------|-------------------|
| a. Research grants | 1 | 0 | 0 | 1 | 2 | 2 |
| b. Non-research grants | 0 | 0 | 0 | 1 | 1 | 3 |
| c. Other - Please specify: Policy issues, technical merit issues, facilities and fellowships | 0 | 0 | 0 | 1 | 2 | 0 |

34. If you checked column 1 through 4 for any row in question 33 above, please indicate which particular FACA requirements are most responsible for discouraging your agency's reliance on peer review panels.

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

35. If you checked column 1 through 4 for any row in question 33 above, what changes does your agency think should be made to FACA to resolve this concern?

36. Does your agency believe peer review panels should be exempt from FACA requirements? (*Check one.*)

- 2 Yes, they should be exempt from all FACA requirements.
- 2 Yes, they should be exempt from most FACA requirements.
- 1 Yes, they should be exempt from some FACA requirements.
- 1 No, they should not be exempt from any FACA requirements.

37. If you checked box 1 through 3 in question 36 above, please indicate which FACA requirement(s) your agency believes peer review panels should be exempt from.

**Appendix IV
Responses to Federal Advisory Committees
Agency Questionnaire**

38. Identify any areas within FACA, that have not already been identified in any of the above questions, that your agency believes need to be addressed. Please provide the rationale.

39. On balance, would your agency say that the requirements of FACA are . . . (Check one.)

- 6 Much more useful than burdensome to this agency
- 4 Somewhat more useful than burdensome to this agency
- 7 About as burdensome as useful to this agency
- 2 Somewhat more burdensome than useful to this agency
- 0 Much more burdensome to this agency

Please explain your response: _____

This completes the questionnaire. Please return it to that address on page 1.

Thank you very much for your assistance.

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