

ADS 105 - Committee Management

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ADS 105 - Committee Management

105.1 Authority

1. The Federal Advisory Committee Act, P.L. 92-463, October 6, 1972 (hereafter referred to as FACA).
2. Executive Order 12024, "Relating to the Transfer of Certain Advisory Committee Functions", November 20, 1977.
3. General Services Administration (GSA) government-wide regulation, 41 CFR Part 101-6, 1984.
4. Executive Order 12838, "Termination and Limitation of Federal Advisory Committees", February 10, 1993.
5. Office of Management and Budget (OMB) Circular A-135, "Management of Federal Advisory Committees", October 5, 1994.
6. The President's Memorandum for Heads of Departments and Agencies, "Regulatory Reinvention Initiative", March 4, 1995.

105.2 Objective

To provide policies for the establishment, use, management and termination of Federal advisory, USAID-chaired inter-agency, and internal committees.

105.3 Responsibility

1. OMB
 - a. Reviews and approves advisory committee management plans.
 - b. Sets advisory committee ceilings.
 - c. Controls the establishment of statutory advisory committees and develops legislation to terminate those non-discretionary committees which are no longer necessary.
 - d. Ensures that agencies meet the cost reduction target recommended by the National Performance Review (NPR).
2. GSA

- a. Assists OMB in the management and oversight of advisory committees.
 - b. Develops guidance, formats and instructions regarding agency reporting requirements.
 - c. Provides recommendations to OMB and agencies regarding the continuance or management of advisory committees following an annual comprehensive review.
 - d. Reviews proposed committee charters and advises agencies regarding non-discretionary advisory committees.
 - e. Prepares an Annual Report to the President.
3. USAID Committee Management Officer (CMO)
- a. Establishes uniform administrative guidelines and management controls for advisory and inter-agency committees.
 - b. Appraises the need for proposed advisory committees; ensures external requirements and guidelines are followed; clears proposals for establishment of advisory committees prior to submission to the Administrator; obtains GSA/OMB clearances; maintains official files on the operation of USAID advisory committees; transmits approved charters to the Library of Congress; publishes approved charters in the Agency's directives system; coordinates annual reporting.
 - c. Maintains central files and charters for USAID-chaired inter-agency committees.
4. USAID Office of General Counsel (GC)
- a. Reviews and clears advisory committee charters and documentation for conformity with FACA and other requirements.
 - b. Ensures that interests and affiliations of advisory committee members are reviewed consistent with conflict of interest statutes and regulations, the Foreign Agents Registration Act, and other applicable provisions.
 - c. Provides legal advice and interpretation.
 - d. Provides advice regarding Federal Register documentation requirements and ensures publication of notices.

5. Cognizant USAID Bureau/Office
 - a. Prepares documentation to justify the need for and to establish or renew an advisory committee; designates an employee to serve as the USAID Designated Federal Official.
 - b. Prepares and submits documentation necessary to establish/charter USAID-chaired inter-agency committees; ensures appropriate distribution of approved documents/records; provides required support and management of committee activities; maintains inter-agency committee records.
6. USAID Designated Federal Official

Manages the activities of a particular advisory committee and performs functions required by Section 10 of FACA.
7. Bureau for Legislative and Public Affairs (LPA)

Serves as liaison between USAID and the Congress on advisory committee activities; transmits committee charters to the House International Relations and Senate Foreign Relations Committees.

105.4 Definitions (See [ADS GLOSSARY](#))

ADVISORY COMMITTEE
DISCRETIONARY ADVISORY COMMITTEE
INTER-AGENCY COMMITTEE
INTERNAL COMMITTEE
NEGOTIATED RULEMAKING
NON-DISCRETIONARY ADVISORY COMMITTEE

105.5 POLICY

The following are the official Agency policies and corresponding essential procedures:

105.5.1 FEDERAL ADVISORY COMMITTEES

USAID advisory committees shall ensure public and expert involvement and advice in Federal decision-making. USAID currently shall maintain two discretionary committees, the Advisory Committee of the Malaria Vaccine Program and the Advisory Committee on Voluntary Foreign Aid; and one non-discretionary committee, the Board for International Food and Agricultural Development (BIFAD). See Section 105.6, Supplemental References, for committee charters.

E105.5.1 Federal Advisory Committees - N/A

105.5.1a GENERAL MANAGEMENT

- 1) The number and cost of advisory committees must be carefully managed. USAID shall review and eliminate advisory committees that are obsolete, duplicative, low in priority or that serve a special rather than a national interest.
- 2) The number of advisory committees sponsored by USAID shall not exceed the advisory committee ceiling established by OMB.
- 3) USAID shall report annually to OMB and GSA on initiatives to reduce existing committees, terminate statutory committees, and establish new advisory committees.
- 4) USAID shall establish uniform administrative guidelines and management controls for committee oversight.

E105.5.1a General Management - N/A

105.5.1b ESTABLISHMENT

- 1) New advisory committees shall be established only when:
 - a. required by statute; or
 - b. the Administrator finds that compelling considerations necessitate creation and approval is received from the Director, OMB.
- 2) USAID shall give consideration to establishing advisory committees for the purpose of negotiated rulemaking.
- 3) Provisions for establishment and chartering of advisory committees are contained in Section 9 of FACA and in GSA Regulations.

E105.5.1b Establishment - N/A

105.5.1c CHARTER

Charters are required for all advisory committees.

E105.5.1c Charter

Charters must include:

- 1) the official committee title;
- 2) committee objectives and scope of activity;
- 3) the period of time for which the committee will exist;
- 4) identification of the Designated Federal Official (DFO);
- 5) identification of the agency responsible for providing support to the committee;
- 6) a description of committee responsibilities, and authority for any non-advisory functions;
- 7) an estimate of annual operating costs in dollars and full time equivalents (FTEs);
- 8) an estimate of the number and frequency of meetings;
- 9) a termination date; and
- 10) the date that the charter is filed with the House Foreign Affairs and Senate Foreign Relations Committees.

105.5.1d TERMINATION AND RENEWAL

- 1) USAID shall comply with the provisions for the termination and renewal of advisory committees as contained in Section 14 of FACA.
- 2) Advisory committees shall terminate no later than two years after establishment, unless renewed prior to the termination date.
- 3) Committees must be terminated as soon as the stated objectives have been completed, the work has become obsolete, or the cost of the operation is excessive in relation to the benefits.
- 4) Renewed committees shall continue for no more than two years unless renewed again prior to expiration.
- 5) The Administrator must approve renewals of advisory committees. GSA must be notified no less than 30 days before expiration. Publication of renewal notices in the Federal Register may be concurrent with the filing of charters.

E105.5.1d Termination and Renewal - N/A

105.5.1e CHARTER AMENDMENTS

Cognizant bureaus/offices shall initiate revisions to advisory committee charters as needed.

E105.5.1e Charter Amendments - N/A

105.5.1f ADVISORY COMMITTEE MEMBERSHIP

Membership shall be fairly balanced in terms of points of view represented and functions to be performed.

E105.5.1f Advisory Committee Membership

Members shall be chosen with no discrimination on the basis of race, color, national origin, religion, age, sex or handicap. In accordance with 18 U.S.C. Section 219, members may not be or act as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938.

105.5.1g ADVISORY COMMITTEE MEETINGS

The DFO shall call and provide advance approval for all meetings.

E105.5.1g Advisory Committee Meetings

Meetings shall be conducted in accordance with an agenda approved by the DFO. The agenda must list matters to be considered at a meeting and indicate whether any portion of a meeting is to be closed to the public. Agendas shall be distributed to members in advance of meetings and are to be included in official committee records.

105.5.1g(1) NOTICE OF MEETINGS

Notice of meetings shall be provided in advance, in accordance with procedures in section E105.5.1g (1). Exceptions to the requirement for public notice shall be granted only for reasons of national security as determined by GSA; exceptions to the 15-day advance notice requirement may be granted in an emergency, as determined by the Administrator.

E105.5.1g(1) Notice of Meetings

a) Meeting notices shall be published in the Federal Register at least 15 calendar days prior to any meeting.

b) Meeting notices shall be prepared by the cognizant bureau/office, signed by the DFO, cleared by the CMO and forwarded to GC at least 32 days before any meeting. Notices shall include the committee name; the meeting date/time; the meeting purpose; information regarding the extent to which the public will be permitted to attend; and if the meeting or any portion thereof is closed, why the closure is necessary including citation of the appropriate exemption permitted under subsection (c) of 5 U.S.C. Section 552b.

c) Exceptions to the requirement for public notice must be requested and justified by the Administrator at least 30 days in advance. Exceptions to the 15-day advance notice requirement may be granted in an emergency, as determined by the Administrator. In such situations, the facts on which an exception is based shall be included in the notice. Exception requests shall be initiated by the cognizant bureau/office, and cleared by GC and the CMO, before forwarding to the Administrator.

105.5.1g(2) PUBLIC PARTICIPATION

a) Advisory committee meetings shall be open to the public except when:

1. GSA determines that public notice of a meeting is inconsistent with national security; or
2. The Administrator determines that a meeting may be closed to the public in accordance with Subsection (c) of Section 552b of Title 5, U.S.C.

b) To facilitate public participation in meetings which are open or partially open:

1. meetings shall be held at a reasonable time and at a location reasonably accessible to the public;
2. the size of the meeting room shall be large enough to accommodate the committee, its staff, and those members of the public expected to attend;
3. any member of the public shall be permitted to file a written statement with the committee before or after the meeting;
4. interested persons shall be permitted to present oral statements at the meeting in accordance with procedures established by the committee and to the extent time permits; and
5. other participation by the public is not permitted, except in

accordance with procedures established by the committee.

E105.5.1g(2) Public Participation

a) Requests to close all or part of a meeting shall include the reasons for proposed closure, citing specific exemptions under Subsection (c) of Section 552b of Title 5, U.S.C. Such requests shall be submitted by the DFO to the CMO, cleared by GC, and forwarded to the Administrator at least 40 days before the scheduled date of the meeting. The Administrator's determination shall be in writing and must contain a brief statement of the reasons for closing the meeting. The determination shall be made available to the public upon request.

b) When all or part of a meeting is closed, and detailed minutes are not to be made available in their entirety to the public, the committee shall prepare and make publicly available within 30 calendar days, a summary of activities and related matters. Notice of availability of such a summary shall be incorporated in the meeting notice published in the Federal Register.

105.5.1g(3) MINUTES OF MEETINGS

The chairperson or presiding officer shall ensure that detailed minutes are kept of all meetings of a committee and its subgroups.

E105.5.1g(3) Minutes of Meetings

a) Minutes shall include:

1. the time, date and place of the meeting;
2. a list of attendees;
3. a complete summary of matters discussed and conclusions reached;
4. copies of reports received, issued or approved;
5. the extent to which the meeting was open to the public; and
6. the extent of public participation, to include a list of those who presented oral or written statements and an estimate of the number of people in attendance.

b) The chairperson or presiding officer shall certify the accuracy of the minutes. The certification shall indicate that "the minutes are an accurate

and complete summary of the matters discussed and conclusions reached at the meeting held on (date)".

105.5.1h RECORDS: CENTRAL FILES

The CMO shall maintain the Agency's official central file for each advisory committee.

E105.5.1h RECORDS: Central Files

The Agency's official central file for each advisory committee shall include:

- 1) the filed committee charter;

- 2) determinations regarding establishment, renewal, operation and termination of the committee;
- 3) annual activity reports;
- 4) identification of the DFO; and
- 5) location of the committee's operating file.

105.5.1h(1) OPERATING FILES

Each DFO shall maintain an individual operating file at a location known to the CMO.

E105.5.1h(1) Operating Files

Each individual operating file shall include:

- a) a copy of documents establishing, renewing and terminating the committee;
- b) a copy of the charter;
- c) fiscal records; and
- d) reports, transcripts, minutes, appendices and other documents made available to, or prepared for or by, the committee.

105.5.1h(2) ACCESS

- a) The CMO, the IG, the GSA Committee Management Secretariat, and the Comptroller General shall have access to committee records.
- b) Committee records are subject to the Freedom of Information Act (FOIA), and thus are available for public inspection and copying pursuant to Agency FOIA regulations and subject to the general oversight of the CMO.
- c) Public access to records may be denied in the following instances:
 1. records relate directly to a meeting which was closed for reasons of national security;
 2. records relate to a meeting or to part of a meeting which was closed to the public;

3. a document is subject to exemption under 5 U.S.C. 552(b) (FOIA); or
4. records relate to the non-advisory function of a group which is utilized as an advisory committee, but was not established for that purpose.

E105.5.1h(2) Access

- a) Procedures for requesting public access to advisory committee records are the same as those established for Agency records under Section 212.33 of USAID Regulation 12 (22 CFR, Part 212).
- b) Procedures for denial of access to advisory committee records are the same as those established for Agency records under FOIA and USAID Regulation 12, except that use of exemption (5) of 5 U.S.C. 552(b) as the basis for denial requires a determination by the Administrator that the denial is essential to protect the free exchange of internal views and to avoid undue interference with Agency or advisory committee operations.

105.5.1h(3) PERSONNEL FILES

Required personnel documentation shall be maintained within M/HR.

E105.5.1h(3) Personnel Files - N/A

105.5.1h(4) RECORDS DISPOSITION

Records shall be maintained and disposed of according to procedures prescribed in USAID Handbook 21.

E105.5.1h(4) Records Disposition - N/A

105.5.1i ANNUAL REVIEW AND REPORTS

USAID shall conduct an annual review of advisory committees using instructions provided by GSA/OMB.

E105.5.1i Annual Review and Reports

- a) USAID shall report committee terminations or other significant changes.
- b) Reports must be submitted to Congress regarding recommendations made by advisory committees established by Executive Order. USAID

must respond to recommendations within one year of committee expiration.

c) Each committee must submit an annual report on meetings closed to the public. The report shall outline the committee's activities and related matters. No information must be divulged which conflicts with exemptions allowed for closed meetings.

d) Advisory Committee DFOs shall file with the Library of Congress eight copies of each report generated, except when reports fall within an exemption listed in 5 U.S.C. 552(b) or relate to meetings closed for reasons of national security.

105.5.1j SUPPORT SERVICES

USAID shall provide support services to advisory committees that are established by or report to the Agency, unless the establishing authority provides otherwise.

E105.5.1j Support Services

Support services shall be provided by and charged to the cognizant office or bureau, and are coordinated by the DFO. Support services include staff, space,

105.5.1k UNIFORM PAY GUIDELINES

a) USAID shall follow OMB/OPM guidelines in establishing rates of pay for advisory committee members, staffs and consultants.

b) Committee members who are not employed by the U.S. Government shall ordinarily serve without compensation. However, they are permitted to be reimbursed for travel and related expenses under the provisions of USAID travel regulations.

c) If committee members are appointed as USAID consultants or experts, their compensation shall be fixed in accordance with OPM guidelines and regulations, and the general agreement between OPM and USAID.

d) Expenses of committee members shall be charged to the cognizant office or bureau.

E105.5.1k Uniform Pay Guidelines - N/A

105.5.1l ADMINISTRATIVE REVIEW OF ALLEGED NONCOMPLIANCE

An individual whose request for access to an advisory committee document is denied shall be permitted to seek administrative review in accordance with Section 212.36(c) of USAID Regulation 12, 22 CFR 212.36(c).

E105.5.1I Administrative Review of Alleged Noncompliance

With respect to alleged noncompliance with FACA, GSA guidance or Agency regulations, the following actions must be taken:

- a) A written complaint must be filed which contains specific information regarding the alleged noncompliance.
- b) The complaint must be addressed to the Administrator or Deputy Administrator.
- c) The complaint must be filed within 30 days of the alleged noncompliance.
- d) The complaint shall be considered by the Administrator or Deputy Administrator with the advice and assistance of GC and the CMO.
- e) Written notice of the disposition shall be provided to the complainant within 30 days of receipt of the complaint by the Agency.

105.5.1m CONFLICTS OF INTEREST

GC shall review the interests and affiliations of advisory committee members consistent with conflict of interest statutes and regulations.

E105.5.1m Conflicts of Interest - N/A

105.5.2 INTER-AGENCY COMMITTEES: OPERATING PRINCIPLES

- a) Inter-Agency committees shall be established only when it can be demonstrated that creation is essential to the performance of USAID and/or other Federal government functions.
- b) Committees shall be terminated when:
 - 1. they are no longer active;
 - 2. they no longer serve the purpose for which established; or

3. purposes can be achieved via other means.
- c) Inter-Agency committees chaired by USAID shall be specifically authorized by statute, Presidential directive, or a responsible USAID official (Assistant Administrator or equivalent).

E105.5.2 Operating Principles - N/A

105.5.2a OVERSIGHT

The USAID CMO for advisory committees shall also serve as the CMO for inter-agency committees. The CMO shall maintain an inventory and records of inter-agency committees. Oversight for daily activities shall be provided by the sponsoring USAID bureau or office.

E105.5.2a Oversight - N/A

105.5.2b ESTABLISHMENT

The responsible Assistant Administrator (or equivalent) shall approve:

- 1) USAID establishment of an inter-agency committee;
- 2) USAID proposals to establish an inter-agency committee by statute or Presidential directive;
- 3) USAID chairing of an inter-agency committee.

E105.5.2b Establishment

Requests to establish and/or chair inter-agency committees shall include the following information:

- 1) An action memorandum to the Assistant Administrator (or equivalent) which includes the nature and purpose of the committee, the reason needed, and the agencies or departments represented.
- 2) The proposed or approved legislation, Executive Order, inter-agency correspondence or other documentation establishing the committee.
- 3) A draft charter.

105.5.2c CHARTER

USAID-chaired inter-agency committees shall have a charter approved by

the responsible Assistant Administrator (or equivalent). Copies of approved charters must be forwarded to the CMO.

E105.5.2c Charter

Inter-agency committee charters shall include the following information:

- 1) the official committee title;
- 2) specific establishment authority;
- 3) date established/renewed;
- 4) committee objectives, scope, duties;
- 5) proposed duration of committee;
- 6) title of the responsible Agency official;
- 7) committee chair and members by title and organization;
- 8) USAID-provided support responsibilities and costs; and
- 9) the charter approval date.

105.5.2d ADMINISTRATION

Chairpersons of inter-agency committees shall perform the following functions:

- 1) scheduling meetings and approving and distributing agendas;
- 2) convening, conducting, and terminating meetings;
- 3) approving minutes and reports;
- 4) informing participants regarding actions scheduled or taken by the committee; and
- 5) directing staff support.

E105.5.2d Administration - N/A

105.5.2e SUPPORT

USAID shall provide support services for inter-agency committees chaired

by USAID officials, unless the establishing authority provides otherwise.

E105.5.2e Support

Support services are provided by, and charged to, the support allotment of the sponsoring office or bureau. Support services include secretariat functions, conference space, supplies and funds.

105.5.2f RECORDS

1) The CMO shall maintain official central files on each inter-agency committee.

2) The CMO shall have access to bureau and office files. All inter-agency committee records shall be maintained and disposed of in accordance with USAID directives regarding files maintenance and disposition.

E105.5.2f Records

1) Central files shall contain a copy of the following:

- a. documents establishing, changing or terminating a committee;
- b. approved charters and revisions;
- c. reports regarding committee activity.

2) The sponsoring bureau or office shall maintain records showing the cost of committee operation and support and other documents which reflect actions considered and/or taken by the committee, in addition to the files kept by the CMO.

105.5.2g ANNUAL REVIEW

The CMO shall conduct an annual review of intra-agency committees. Recommendations regarding committee management shall be provided to the bureau or office chairing or sponsoring a committee.

E105.5.2g Annual Review - N/A

105.5.3 INTERNAL COMMITTEES

Internal USAID committees do not require an approved charter, nor are they managed by the Agency CMO.

E105.5.3 Internal Committees - N/A

105.6 Supplemental References

Federal Advisory Committee Charters

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