

Federal Experts Security Advisory Panel

Mission

The mission of the Federal Experts Security Advisory Panel (the Panel) is to make technical and substantive recommendations to the Secretary of the U.S. Department of Health and Human Services, the Secretary of the U.S. Department of Agriculture (the Secretaries), and the U.S. Attorney General concerning the appropriate safeguard and security standards for persons possessing, using, or transferring biological select agents or toxins commensurate with the risk that such agents or toxins pose to public health and safety, to animal and plant health, and animal and plant products; including the risk of their use in domestic or international terrorism.

The Panel will be asked to provide technical consultation regarding physical, personnel, and cyber security standards, reduction and/or tiering of the list of biological select agents and toxins, and other technical advice and assistance as may be requested from time to time by the Directors of the Select Agent Program.

Purpose

The purpose of the Panel is to assist the Select Agent Program in the performance of its regulatory functions with regard to the security of select agents and toxins under the HHS and USDA Select Agent Regulations (7 C.F.R. §331.11, 9 C.F.R. §121.11, 42 C.F.R. §42.11).

The duties of the Panel shall be solely advisory and shall extend only to the submission of advice or recommendations to the Secretaries of Health and Human Services, the Secretary of Agriculture and the Attorney General. Determinations of action to be taken and policy to be expressed with respect to matters upon which the Panel provides advice or recommendations shall be made solely by the Secretary of Health and Human Service, the Secretary of Agriculture and the Attorney General.

Authority

The Federal Experts Security Advisory Panel is established pursuant to Presidential Executive Order 13546 —Optimizing the Security of Biological Select Agents and Toxins in the United States, signed July 2, 2010.

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (42 U.S.C. 262a) and the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401) directs the Secretary of the Department of Health and Human Services and the Secretary of Agriculture, respectively, in consultation with the Attorney General, to establish appropriate safeguard and security requirements for persons possessing, using, or transferring biological select agents and toxins.

Duration

The charter for this Panel shall terminate on July 2, 2014, unless prior to that date the charter is renewed through the interagency policy process led by the National Security Staff.

Definitions

1. The term “**Select Agent Program**” means the regulatory oversight and administrative activities conducted by the Secretaries of Health and Human Services and Agriculture and the Attorney General to implement the provisions of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 and the Agricultural Bioterrorism Protection Act of 2002.
2. The “**Select Agent Regulations**” are the Federal regulations found in Part 73 of Title 42, Part 331 of Title 7, and Part 121 of Title 9 of the Code of Federal Regulations.
3. The phrase “**biological select agent and toxin**” refers to a biological pathogen or toxin with the potential to pose a severe threat to public health and safety, animal and plant health, or animal or plant products; and whose possession, use, and transfer is regulated by the Department of Health and Human Services and the Department of Agriculture under the Select Agent Regulations.
4. The term “**Tier 1 agent**” means a biological select agent or toxin which has been determined by the Secretary of Health and Human Services and/or the Secretary of Agriculture, in consultation with the Secretary of Homeland Security, to present the greatest risk of deliberate misuse with most significant potential for mass casualties or devastating effects to the economy, critical infrastructure, or public confidence in the United States.

Function

The Panel shall be co-chaired by the representative of the Department of Health and Human Services and the representative of the Department of Agriculture.

The Panel shall be composed wholly of full-time or permanent part-time officers or employees of the Federal government. Individual external consultants may attend these meetings, as invited, for the purpose of providing their expert opinion but will not otherwise be allowed to participate in the consideration of the Panel.

The Directors of the Select Agent Program, their designated representatives, and their Departmental legal counsel may attend Panel meetings, including the meetings of any Panel working group, as ex-officio members.

The Panel, at the call of the Panel Co-Chairs, shall meet regularly as deemed necessary by either of the Panel Co-Chairs, to consider security issues related to the possession, use, and transfer of biological select agents and toxins.

A quorum for the Panel shall consist of a majority of the appointed members eligible to vote. Nonvoting agency representatives shall not be counted in calculating a quorum. All votes relating to recommendation review shall be documented. If the Panel is unable to reach consensus on a recommendation concerning a matter within its charge, the Panel Co-Chairs shall refer the matter to the appropriate National Security Staff Interagency Policy Committee.

The Department of Homeland Security representative shall chair the Panel's working group on laboratory critical infrastructure security standards in the areas of physical and cyber security.

Either of the Panel Co-Chairs may create additional working groups as they deem necessary.

The Chair of a working group will report the working group's recommendations, including any dissenting views, to the Panel.

The Panel shall, not later than November 2, 2010, provide consensus recommendations to the Directors of the Select Agent Program on:

1. the designation of Tier 1 agents and toxins;
2. reduction in the number of agents on the Select Agent List;
3. the establishment of appropriate practices to ensure reliability of personnel with access to Tier 1 agents and toxins at registered facilities;
4. the establishment of appropriate practices for physical security and cyber security for facilities that possess Tier 1 agents; and
5. other emerging policy issues relevant to the security of BSAT.

Thereafter, the Panel shall continue to provide technical advice concerning the SAP on request.

Composition

The Panel shall be composed of a voting representative from:

1. The Department of Agriculture;
2. The Department of Commerce;
3. The Department of Defense;
4. The Department of Energy;
5. The Department of Health and Human Services;
6. The Department of Homeland Security;
7. The Department of Justice;
8. The Department of Labor;

9. The Department of State;
10. The Department of Transportation;
11. The Department of Veterans Affairs;
12. Environmental Protection Agency;
13. Office of the Director of National Intelligence;
14. Office of Science and Technology Policy;
15. The Joint Chiefs of Staff;
16. Any other executive department, agency or office designated by either of the Co-Chairs.

Working Groups shall be composed of members as assigned by Panel representatives and may be supplemented by personnel from additional executive departments, agencies, or offices as necessary.

Operational Support

The Department of Health and Human Services shall provide the necessary operational support for the Panel. Operational support does not include the expenditure of funds for travel.

Information Sharing

Information provided to the Panel by the Select Agent Program is sensitive and, when appropriate, will be marked as Controlled Unclassified Information (CUI). Such information must be handled in a manner to prevent unauthorized disclosure. Such information remains the property of the Select Agent Program and its transfer to another Federal Department or Agency is not authorized without the express prior approval of a Director of the Select Agent Program. Release of this material is subject to the provisions of 42 U.S.C. 262a(h) and section 7 U.S.C. 8401(h). Review of information provided by the Select Agent Program should be limited to those persons whose official duties require it.