

Glen Canyon Dam Adaptive Management Work Group
Agenda Item Form
May 25, 2016

Agenda Item

Federal Advisory Committee Act Overview: FACA 101 – Managing People and Process

Purpose

This overview of the Federal Advisory Committee Act (FACA) is designed to help AMWG members better understand the Act under which they are organized, their role, and their purview; facilitate discussion among them; and assist them in making recommendations to the Secretary.

Action Requested

Information item only.

Presenter

Jill Nagode, FACA Group Federal Officer, Bureau of Reclamation

Previous Action Taken

By AMWG:

During the February 2016 AMWG meeting, a presentation was made regarding the recently completed Assessment Report. One recommendation from the report was that an orientation be provided for AMWG members, to ensure at least a minimum level of understanding on the many issues that the group addresses. That recommendation was generally agreed to by the group, and this overview is part of that orientation.

Relevant Science

N/A

Summary of Presentation and Background Information

Jill Nagode, Bureau of Reclamation Group Federal Officer, has prepared a brief overview of the Federal Advisory Committee Act (FACA) that includes fundamental information regarding laws and regulations that apply to Federal advisory committees established within the executive branch. More topics of her presentation include how Federal advisory committees are renewed; charter amendments; how Federal advisory committees are managed; roles and responsibilities; how to ensure a fairly balanced membership; meeting and record keeping requirements/procedures; public access to discussion, deliberations, records, and documents; opportunity for the public to provide, at a minimum, written comments; and how to provide collective advice and recommendations to the Secretary of the Interior.

The presentation by Ms. Nagode will provide guidance to those who are new to the field of committee management, as well as an overview for those who have served on the AMWG Federal advisory committee. Topics specific to AMWG will be covered throughout the presentation.

RECLAMATION

Managing Water in the West

FACA 101- Managing People and Process

Federal Advisory Committee Act Overview

Glen Canyon Dam
Adaptive Management Work Group
May 25, 2016



U.S. Department of the Interior
Bureau of Reclamation

Session Overview

- **What is the Federal Advisory Committee Act**
- **Types of Committees**
- **Charters and By-Laws**
- **Roles and Responsibilities**
- **Meeting Management**
- **Issue Development**
- **Wrap Up/Questions?**

Relevant Laws and Regulations



- (1) Federal Advisory Committee Act (Public Law 92-463)
- (2) Government in the Sunshine Act (Public Law 94-409)
- (3) FACA Final Rule (41 CFR Parts 101-6 and 102-3)
- (4) DOI Manual 308-DM
- (5) Privacy Act (Public Law 93-574)
- (6) Freedom of Information Act (Public Law 104-231)

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What is an Advisory Committee?

The term “advisory committee” means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, which is –

- Established by statute,
- Established or utilized by the President, or
- Established or utilized by one or more agencies

...for the purpose of obtaining advice or recommendations for the President or an agency, or on issues or policies within the scope of an agency official’s responsibilities...that is not composed wholly of officers or employees of the Federal Government.



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Types of Committees

- *Presidential Advisory Committees* – Established by Executive Order to provide direct advice to the President
- *Non-Discretionary Advisory Committees* (also referred to as Statutory committees) – Directed by law
- *Discretionary Advisory Committees* – Authorized by law (AMWG)
- *Agency Established Advisory Committees* – Formed at the discretion of the Agency head

Department of the Interior Committees

The Department of the Interior has a total of 112 Federal advisory committees:

- Presidential Committees – 4
- Non-Discretionary Committees – 87
- Discretionary Committees – 5
- Agency Established Committees – 16

AMWG = Discretionary Advisory Committee

- AMWG was authorized by the Grand Canyon Protection Act, Public Law 102-575, Sections 1802, 1804, and 1805
- Established at the discretion of the Secretary of the Interior on February 4, 1997
- Committee renewed every 2 years since 1997

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Committee Renewal Requirements

Discretionary Committees

- Consult with the GSA Committee Management Secretariat for Establishment, Renewal (several months in advance of expiration) or Re-establishment (after terminated)
- Consultation Requirements at a Minimum:
 - Charter
 - Explanation of need
 - Fairly balanced membership
 - Lack of duplication of committees across Federal Government
- Public notification requirements (Federal Register)
 - Notice can appear concurrently/after charter filing (for renewal)

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Subcommittees & Other Groups

- In accordance with the current FACA Regulations, Subcommittees are not subject to FACA requirements, AS LONG AS the work of such groups are properly characterized in public at the meeting of its “parent” or chartered Committee
- However, the chartered Committee cannot simply “rubber-stamp” the work of the Subcommittee
- The term “Subcommittee” can include any working group or other ad hoc or semi-permanent group – it’s the function that matters, not the name of the group

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Purpose & Scope of Charters

- The purpose of the advisory committee charter is to specify the committee's mission, goals and objectives, and general operational characteristics
- Legitimizes the advisory committee
- Enables the committee to meet and take actions
- Charters are 2-year documents, unless otherwise specified in legislation; filed with Agency Head, Congress, Library of Congress, GSA



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Types of Charter Processes

- Establishment – A newly formed committee: This is the “birth certificate”
- Renewal – An established committee whose charter is about to expire
- Amendment – Major or minor changes to existing charter (an amendment does not constitute a renewal)
- Termination – Committee has done its work or is no longer needed
- Re-establishment – Miss deadline to renew or committee did not meet objectives in time/ran out of time

Charter Amendments

Minor charter amendments:

- Template/format changes (GSA protocols)
- Secretary's Designee/DFO section (position, not specific name)
- Does not alter objectives or scope of committee
- Changes consistent with relevant authority

Major charter amendments:

- Substantial changes to the charter, such as objectives and scope, duties, estimated costs
- If authority revised, Agency must change charter

Must consult with GSA and explain why necessary

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Using Committee By-Laws

- **By-Laws are operating procedures that include:**
 - Purpose of committee
 - Rules for running meetings
 - Term limits & appointments
 - Role of Chair (& Vice Chair)
 - Quorum
 - Use of subgroups and reporting relationships
 - Public participation process
 - Reporting requirements & record-keeping



Roles and Responsibilities

- **Department Committee Management Officer**
- **Bureau Group Federal Officer**
- **Secretary's Designee/Designated Federal Officer**
- **Chair**
- **Members**



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Department Committee Management Officer

- Office of Executive Secretariat and Regulatory Affairs
- Develops, oversees, and coordinates Interior's Committee Management Program
- Reviews/finalizes all enabling committee charters and all Secretarial appointments of actions
- Supports the White House Liaison in the clearance/vetting process of Secretarial appointments
- Coordinates with GSA, General Counsel, Ethics, other agencies

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Reclamation's Group Federal Officer

- Oversees all committee management activities for Bureau of Reclamation committees – compliance with rules, regulations, policies, etc.
- Liaison official between Department CMO and AMWG
- Prepares/coordinates charter packages/appointment letters/memos to the Secretary
- Coordinates and submits all reports to the CMO (Annual Comprehensive Review, Quarterly Vacancy Reports, other reports as required)



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Secretary's Designee/ Designated Federal Officer

- **Must be either a full-time or part-time Federal employee.**
 - **Oversight of all committee actions**
 - **Calls committee meetings; approves agenda; adjourns meetings**
 - **Assures deadlines are met/committee is meeting objectives**
 - **Maintains records on all committee activities/makes them available to the public**
 - **Initiates all nominations**
 - **May chair meetings**

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Chair Responsibilities

- **Presides at all committee meetings; ensures agenda is followed**
- **Ensures that all rules of order and conduct are maintained during each session**
- **Calls on individuals for opinions, comments; calls for vote**
- **Allows time for public participation**
- **Certifies meeting minutes**

Member Responsibilities

- Based on enabling legislation and purpose of committee
- Nominations based on qualifications/ability to contribute
 - Serve as source of independent expertise and advise on policy/program activities carried out by the committee
 - Notify DFO when you need to miss a meeting
 - Make recommendations
 - Complete necessary paperwork for renewal if being reappointed



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Meeting Management

- Meeting location planning
- Advertising the meeting
- Preparing the meeting agenda
- Conducting the meeting
- Public participation
- Well-run (smooth) meetings



Issue Development

- **DFO Responsibilities**
 - Interaction with Members to ensure understanding of the Committee mission
 - Defines the issues to be addressed by the Committee
 - Reviews materials with Agency staff “client” to eliminate confusion prior to engaging the Committee
 - Develops an agreed-upon timeline
 - Develops a charge in conjunction Members of the committee



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Meeting Wrap-Up & Record-Keeping

- **Meeting Wrap-up:**
 - Draft minutes immediately after meeting
 - Send meeting materials to non-attending members
 - Follow-up on assignments to Committee members –
Leading to Final Report/Recommendations
 - Planning for future meetings

Record-Keeping

- FACA/NARA file requirements
- Update website
- Update FACA Database



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Questions?

Useful Links:

- GSA FACA Website

www.gsa.gov/portal/content/100916

- Federal Advisory Committee Act Database

<http://www.facadatabase.gov/>

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