



# Department of Defense **INSTRUCTION**

**NUMBER 5105.04**

August 6, 2007

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DA&M

**SUBJECT:** Department of Defense Federal Advisory Committee Management Program

- References:**
- (a) DoD Directive 5105.4, "Department of Defense Federal Advisory Committee Management Program," February 10, 2003 (hereby canceled)
  - (b) Acting Deputy Secretary of Defense Memorandum, "DoD Directives Review – Phase II," July 13, 2005
  - (c) DoD Directive 5105.53, "Director of Administration and Management," November 23, 1998
  - (d) Title 41, Code of Federal Regulations, Sections 102-3.5 through 102-3.185, "Federal Advisory Committee Management"
  - (e) through (y), see Enclosure 1

## 1. PURPOSE

This Instruction:

1.1. Reissues Reference (a) as a DoD Instruction in accordance with the guidance in Reference (b) and the authority in References (c) and (d).

1.2. Establishes policy, provides procedures, and assigns responsibilities for the Department of Defense Federal Advisory Committee Management Program in accordance with sections 102-3.5 through 102-3.185 of Reference (d), and Appendix of title 5, United States Code (U.S.C.) (Reference (e)).

## 2. APPLICABILITY AND SCOPE

This Instruction applies to:

2.1. The Office of the Secretary of Defense (OSD), the Military Departments (including the Coast Guard at all times, including when it is a service in the Department of Homeland Security by agreement with that Department), the Chairman of the Joint Chiefs of Staff, the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter collectively referred to as the "DoD Components"). The term

“Military Services,” as used herein, refers to the Active and Reserve Components of the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard.

2.2. DoD-Supported Federal Advisory Committees, pursuant to section 102-3.105(b) of Reference (d) and Reference (e).

2.3. Nothing in this Instruction shall:

2.3.1. Limit or restrict the free exchange of information, advice, or ideas between representatives of the Department of Defense or other Federal Agencies through ad hoc or occasional meetings, or by other means.

2.3.2. Apply to any committee, board, commission, council conference, panel, task force, subcommittee or other subgroup, or any other similar types of groups, which are:

2.3.2.1. Internal DoD staff meetings, accident investigation boards, safety mishap boards, flying evaluation boards, or medical evaluation boards, committees established to perform primarily operational duties, as opposed to advisory functions, or boards to select members of the Military Services for promotion, reassignment, education, training, separation, or retirement.

2.3.2.2. Created by a non-Federal entity (such as a contractor or private organization) and are not actually managed or controlled by an officer or employee of the Federal government.

2.3.2.3. Meetings initiated by one or more Federal officials with more than one other individual to obtain advice from individual attendees and not for the purpose of utilizing the group to obtain consensus advice or recommendations.

2.3.2.4. Meetings of two or more Committee or Subcommittee members convened solely to gather information or to conduct research for a Committee operating under this Instruction, to analyze relevant issues and facts, or to draft proposed position papers for deliberations by the entire Committee membership.

2.3.2.5. Local civic groups whose primary function is that of rendering a public service with respect to a Federal program or any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies.

2.3.3. Require intergovernmental and intragovernmental committees to comply with the provisions of this Instruction. Notwithstanding, care shall be taken to ensure that members of the public do not participate in any deliberations whatsoever. Public participation in the deliberations of intergovernmental or intragovernmental committees may require the Committee to comply with References (d) and (e). Any questions regarding this issue shall be directed to the Committee Management Officer (CMO).

### 3. DEFINITIONS

Terms used in this Instruction are defined in Enclosure 2.

### 4. POLICY

It is DoD policy that:

4.1. No DoD-Supported Federal Advisory Committee (hereafter referred to as “DoD-Supported Committee”), subject to the provisions of References (d) and (e), shall be established unless specifically authorized by the President of the United States, Congress, the Secretary of Defense, or an official authorized by the Secretary of Defense.

4.2. No DoD-Supported Committee shall be considered part of the DoD organizational structure.

4.3. DoD-Supported Committees shall be supported by a DoD Sponsor appointed by the Director for Administration and Management (DA&M).

4.4. All DoD-Supported Committees shall be used for advisory functions, unless directed by statute or Presidential directive. Only the President, the Secretary of Defense, or their designees, as appropriate, shall determine the proper course of action and the appropriate expression of policy regarding matters on which a Committee reports or makes recommendations.

4.5. No Discretionary Committees shall make any decisions, conduct DoD operations, or perform functions that are capable of being carried out by existing DoD resources, an existing Committee, or other means, such as public hearings.

4.6. Committee membership, as a whole, shall be balanced in terms of the points of view and the functions to be performed.

4.7. All DoD-Supported Committees, by majority vote of the Committee members, shall develop and adopt by-laws that describe how the Committee and its Subcommittees, if authorized, operate and the Committee’s relationship to the Department of Defense. Adopted by-laws shall be made available to the public, upon request.

4.8. Individuals who are appointed to or detailed to Committees, while acting in an official capacity as a Committee member or Committee staff, shall not perform any work for the Department of Defense other than what is directly associated with the Committee’s Charter.

### 5. RESPONSIBILITIES

5.1. The DA&M shall:

5.1.1. Perform, pursuant to the Acting Deputy Secretary of Defense Memorandum

(Reference (f)), the responsibilities of the Secretary of Defense outlined in References (d) and (e).

5.1.2. Appoint a DoD Sponsor for each DoD-Supported Committee, unless otherwise directed by statute, Executive order, or the Secretary of Defense.

5.1.3. Approve or disapprove the establishment, renewal, or termination of all DoD-Supported Committees and determine whether Subcommittees shall be authorized, unless otherwise prohibited by statute, Executive order, or the Secretary of Defense.

5.1.4. Ensure that DoD-Supported Committees are terminated whenever their work has been accomplished, the subject matter is no longer relevant, their work has become obsolete, or their functions have been assumed by another Federal government entity.

5.1.5. Determine the level of DoD support to be provided to Independent Presidential Advisory Committees.

5.1.6. Appoint a Committee Management Officer for the Department of Defense to provide policy oversight and management of the Department of Defense Federal Advisory Committee Management Program.

5.1.7. Develop and implement DoD-wide policies and procedures to ensure DoD compliance with References (d) and (e).

5.1.8. Ensure that all DoD Components cooperate with any Committee and furnish such information and assistance as is necessary for the performance of its functions, consistent with applicable laws.

5.1.9. Ensure that information is shared as broadly as possible, except when limited by law, policy, or security classification and that data assets resulting from assigned responsibilities are accessible by and comprehensible to the Department of Defense, pursuant to DoD Directive 8320.02 (Reference (g)).

5.2. The CMO, under the authority, direction, and control of the DA&M, shall:

5.2.1. Develop and file the Charters for all DoD-Supported Committees, including the initial Charter and any modifications or renewals pursuant to this Instruction and Reference (c).

5.2.2. Consult with the General Counsel of the Department of Defense (DoD GC) and the Committee Management Secretariat (CMS) for the General Services Administration (GSA), on matters pertaining to the Department of Defense Federal Advisory Committee Management Program, pursuant to Executive Order 12024 (Reference (h)).

5.2.3. Ensure that all DoD-Supported Committees, unless otherwise authorized by a statute, Executive order, or the Secretary of Defense, or designee, terminate their operations not later than 2 years after the date of establishment.

5.2.4. Review and approve all written DoD guidance that implements References (d) and (e) and this Instruction prior to publication by any DoD organization or entity (including, but not limited to, Regulations, Manuals, Pamphlets, Directives, and changes thereto).

5.2.5. Review and validate DoD's submission to the Annual Comprehensive Review (ACR) and the Closed or Partially Closed Meeting Report and work with the CMS to correct any deficiencies.

5.2.6. Develop and maintain a Committee Management Review Program to ensure that the Department of Defense and the DoD-Supported Committees comply with the appropriate statutes, Executive orders, policies, and regulations.

5.3. The OSD Principal Staff Assistants (PSAs), the Secretaries of the Military Departments, and the Chairman of the Joint Chiefs of Staff shall:

5.3.1. Serve as the DoD Sponsor of DoD-Supported Committees, when appointed by the DA&M, and in that capacity shall:

5.3.1.1. Provide adequate support to the DoD-Sponsored Committees, which may, depending on the Committee's requirements, include support in the following areas: funding, facilities, human resources (Committee member appointments and staffing requirements, when authorized), information technology, central services (telephones, supplies, furniture, printing, etc.), contracting, and access to key decision makers.

5.3.1.2. Ensure Federal employees do not interfere with the daily management responsibilities and functions of DoD-Supported Committees, or provide specific direction to appointed Committee members on how to execute their statutory responsibilities, which are to provide independent advice and recommendations to the Federal government.

5.3.2. Make recommendations to the DA&M regarding the establishment, renewal, or termination of DoD-Supported Committees, as necessary.

5.3.3. Nominate to the Secretary of Defense, or designee, for the appointment or reappointment of qualified individuals to serve on DoD-Supported Committees.

5.3.4. Ensure that all Component organizations cooperate with any Committee and furnish such information and assistance as is necessary for the performance of its functions, consistent with applicable laws.

5.3.5. Select and appoint a full-time or permanent part-time Federal employee to perform Group Federal Officer (GFO) duties for the DoD Sponsor. This appointment authority may be further delegated in writing, but no lower than the Assistant Secretary level. No one to whom this appointment authority is delegated may serve in any capacity on any Committee sponsored by the DoD Sponsor in question.

5.3.6. Select and appoint a full-time or permanent part-time Federal employee to perform Designated Federal Officer (DFO) or Alternate DFO duties for each DoD-Supported Committee. This appointment authority may be further delegated in writing, but no lower than the Assistant Secretary level or the three-star flag officer equivalent. No one to whom this appointment authority is delegated may serve in any capacity on the Committee in question.

5.3.7. Determine, in consultation with the appropriate GC, whether to close all or part of a Committee or Subcommittee meeting to the public pursuant to section 552b(c) of title 5, U.S.C. (Reference (i)). This authority may be delegated in writing, but no lower than the Assistant Secretary level or the three-star flag officer equivalent. No one to whom this authority is delegated may serve in any capacity on the Committees in question.

5.3.8. Evaluate, unless prohibited by a statute or Executive order, a Committee's independent advice and recommendations, and determine which actions or policies shall be implemented by the Department of Defense. Only the PSAs, the Secretaries of the Military Departments, or the Chairman of the Joint Chiefs of Staff, who have been designated as DoD Sponsors of specific Committees shall be authorized to exercise this authority, and only when such advice falls within the scope of the responsibilities and functions formally assigned to them by a statute or a DoD Charter Directive. This authority may be further delegated in writing, but no lower than the Assistant Secretary level or the three-star flag officer equivalent. No one to whom this authority is delegated may serve in any capacity on the Committee in question.

5.3.9. Ensure a copy of all delegations authorized by this Instruction are provided to the CMO.

5.4. The Director of the Document Automation and Production Service (DAPS), or designee, under the authority of the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall:

5.4.1. Determine, in accordance with the Government Printing Office (GPO), if a Committee's report should be sold in the GPO's commercial stores and if it should be distributed through the Federal Depository Library Program.

5.4.2. Ensure that the printing requirements for DoD-Supported Committees are accomplished in an expeditious manner, due to the time sensitivity of the Committees' work, and include, if necessary, authorizations for the use of private-sector graphic design and commercial printing companies.

5.5. The GFO, under the authority, direction and control of the DoD Sponsor, shall:

5.5.1. Assist the Sponsor in the administrative oversight and management of their aspects of the Department of Defense Federal Advisory Committee Management Program.

5.5.1. Oversee compliance of those Committees sponsored by his or her DoD Sponsor with References (d) and (e), this Instruction, and all other relevant Federal rules and regulations.

5.5.2. Develop and maintain, for their respective Component, a Committee Management Program that ensures compliance with the appropriate statutes, Executive orders, policies, and regulations.

5.5.3. Develop and implement Component-wide policies and procedures to ensure compliance with References (d) and (e) and this Instruction.

5.5.4. Consult with the DoD Sponsor's GC and the CMO on matters pertaining to the Department of Defense Federal Advisory Committee Management Program, pursuant to References (d) and (e) and this Instruction.

5.5.5. Assist the CMO in ensuring that all written Component guidance (including, but not limited to, Regulations, Manuals, Pamphlets, Directives, and changes thereto) that implement References (d) and (e) and this Instruction are reviewed by the CMO prior to publication.

5.5.6. Review and validate DoD's submission to the ACR and the Closed-Partial Closed Meeting Report and work with the CMO to correct any deficiencies.

5.5.7. Assist their DoD Sponsor to ensure that Committees are terminated whenever their work has been accomplished, the subject matter is no longer relevant, their work has become obsolete, or their functions have been assumed by another Federal government entity.

5.6. The DFO, under the authority, direction, and control of the DoD Sponsor, the DA&M, and the CMO, shall:

5.6.1. Ensure compliance of DoD-Supported Committees with References (d) and (e), this Instruction, and all other relevant Federal rules and regulations.

5.6.2. Ensure that no DoD-Supported Committee establishes Subcommittees unless specifically authorized by statute, Executive order, or the Committee's Charter.

5.6.3. Ensure that no DoD-Supported Committee shall meet or take any official action until the CMO files the Committee's Charter pursuant to Reference (d), and paragraph E3.4.3. of this Instruction.

5.6.4. Comply with the DFO duties assigned by References (d) and (e), this Instruction, and the DA&M and/or the CMO.

5.6.5. Ensure that no DoD-Supported Committee, unless authorized by statute, uses a commercial publishing house to print or sell any of its reports.

5.6.6. Ensure that DoD-Supported Committees are managed pursuant to the provisions of References (d) and (e) and this Instruction.

5.6.7. Oversee the internal controls of DoD-Supported Committees for non-payroll financial transactions to ensure compliance with the Federal Acquisition Regulation (Reference (j)) and other Federal policies and procedures governing financial management practices.

5.7. The Alternate DFO, under the authority, direction, and control of the DFO and the DoD Sponsor, shall:

5.7.1. Assist the Committee's DFO, when appointed by the DoD Sponsor, and in that capacity shall:

5.7.1.1. Ensure compliance of DoD-Supported Committees with References (d) and (e), this Instruction, and all other relevant Federal rules and regulations.

5.7.1.2. Ensure that DoD-Supported Committees are managed pursuant to the provisions of References (d) and (e) and this Instruction.

5.7.1.3. Oversee the internal controls of DoD-Supported Committees for non-payroll financial transactions to ensure compliance with the Reference (j) and other Federal policies and procedures governing financial management practices.

5.7.2. Comply with the DFO duties assigned by References (d) and (e), this Instruction, the DA&M, the CMO or the DFO, when required.

## 6. PROCEDURES

The procedures for implementing this Instruction are contained in Enclosure 3.

## 7. INFORMATION REQUIREMENTS

7.1. Reports of findings, recommendations or actions prepared by a committee are exempt from licensing in accordance with paragraph C4.4.3. of DoD 8910.1.-M (Reference (k)).

7.2. Committee recommendations or evaluations as to existing or proposed plans, policies, procedures, organizations, missions, publications, agenda, curricula or courses of action are exempt from licensing in accordance with paragraph C4.4.4. of Reference (k).

7.3. Data collection that falls outside the exemptions cited in paragraphs 7.1. and 7.2. require licensing. The WHS/ESD Information Management Division shall be consulted on a case-by-case basis before any such data collection commences.

8. EFFECTIVE DATE

This Instruction is effective immediately.



Michael B. Donley  
Director, Administration and Management

Enclosures - 3

- E1. References, continued
- E2. Definitions
- E3. Procedures

E1. ENCLOSURE 1

REFERENCES, continued

- (e) Appendix of title 5, United States Code, as amended
- (f) Acting Deputy Secretary of Defense Memorandum, "Department of Defense Federal Advisory Committee Management Program," August 22, 2006
- (g) DoD Directive 8320.02, "Data Sharing in a Net-Centric Department of Defense," December 2, 2004
- (h) Executive Order 12024, December 1, 1977
- (i) Sections 7(a), 552, 2104, 2105, 3102, 3109, and 3161 of title 5, United States Code
- (j) Federal Acquisition Regulation, March 2005
- (k) DoD 8910.1-M, Paragraphs C4.4.3 and C4.4.4, "DoD Procedures for Management of Information Requirements," June 30, 1998
- (l) Sections 202, 203, 205, 207 and 208 of title 18, United States Code
- (m) DoD Directive 1100.4, "Guidance for Manpower Management." February 12, 2005
- (n) Chapter 38 of title 10, United States Code
- (o) DoD Directive 1000.17, "Detail of DoD Personnel to Duty Outside the Department of Defense," February 24, 1997
- (p) DoD 5500.7-R, "Joint Ethics Regulation," August 1993, as amended
- (q) DoD 5200.1-R, "Information Security Program," January 14, 1997
- (r) Joint Federal Travel Regulations, Volume 1, "Uniformed Services Members"
- (s) Joint Travel Regulations, Volume 2, "DoD Civilian Personnel"
- (t) Sections 501 and 504 of the Rehabilitation Act of 1973, as amended
- (u) DoD Directive 5015.2, "DoD Records Management Program," March 6, 2000
- (v) DoD Instruction 5330.03, "Document Automation and Production Service (DAPS)," February 8, 2006
- (w) Section 1042 of Public Law 107-107, "National Defense Authorization Act for Fiscal Year 2002," December 28, 2001
- (x) Section 3301 of title 44, United States Code
- (y) Title 36, Code of Federal Regulations 1228, Subpart L

E2. ENCLOSURE 2

DEFINITIONS

E2.1. Administrative Work Meeting. A meeting between two or more Committee members or Subcommittee members convened solely to discuss Committee administrative matters or to receive administrative information from a Federal employee or agency. As defined, an administrative work meeting shall be exempt from the open meeting and Federal Register meeting notice requirements of Reference (d).

E2.2. Advisory Committee. Any committee, subcommittee, board, commission, council, conference, panel, task force, or other similar group which is established by statute or reorganization plan, established or utilized by the President of the United States, or established or utilized by one or more agencies to obtain advice or recommendations for the President or one or more Federal agencies or employees. As defined, "Advisory Committee" does not include any committee that is composed solely of full-time or permanent part-time Federal employees or any committee created by the National Academy of Sciences or the National Academy of Public Administration.

E2.3. Alternate Designated Federal Officer. A full-time or permanent part-time Federal employee appointed by the DoD Sponsor to assist the Committee's appointed DFO. The Alternate Designated Federal Officer may assist the DFO in the performance of his or her duties.

E2.4. Committee Management Officer (CMO). The individual designated by the DA&M to manage and provide policy oversight to the Department of Defense Federal Advisory Committee Management Program.

E2.5. Committee Management Secretariat (CMS) for the General Services Administration (GSA). The organization established pursuant to section 7(a) of Reference (i), which is responsible for all matters relating to Advisory Committees and carries out the responsibilities of the Administrator of the GSA under References (d) and (e).

E2.6. Committee Meeting. Any gathering of Committee members (whether in person or through electronic means) held with the approval of the DFO for the purpose of deliberating on substantive matters for which the Committee provides advice or recommendations.

E2.7. Committee Member. An individual who serves by appointment or invitation on an Advisory Committee or Subcommittee. A Committee member may be a Federal employee, a private U.S. citizen, or employee of a U.S. State or local government.

E2.8. Committee Staff. Committee staff may include Federal employees (military or civilian), private U.S. citizens, and other individuals (including contractors) who are not Committee members, but serve in a support role to an Advisory Committee or Subcommittee.

E2.9. Defense Decorations. The Defense Distinguished Service Medal, the Defense Superior Service Medal, the Defense Meritorious Service Medal, the Joint Service Commendation Medal, and the Joint Service Achievement Medal.

E2.10. Designated Federal Officer (DFO). The full-time or permanent part-time Federal employee appointed by the DoD Sponsor for a specific DoD-Supported Committee, who, as the Federal government's representative to the Committee, shall ensure the Committee's compliance with References (d) and (e).

E2.11. Discretionary Committee. Any Committee established under the authority of the Secretary of Defense or authorized by statute. An Advisory Committee that is referred to in general (non-specific) authorizing language or Congressional Committee report language is discretionary, and its establishment or termination is within the legal discretion of the Secretary of Defense.

E2.12. DoD-Supported Federal Advisory Committee (or "DoD-Supported Committee"). Any Federal Advisory Committee subject to the provisions of References (d) and (e) that the Secretary of Defense or the Department of Defense has been directed to support or that the Secretary of Defense or designee has established.

E2.13. DoD Sponsor. The Component Head designated by the DA&M to sponsor a DoD-Supported Federal Advisory Committee. The Component Heads shall be one of the OSD PSAs, the Secretaries of the Military Departments, or the Chairman of the Joint Chiefs of Staff.

E2.14. Group Federal Officer (GFO). A full-time or permanent part-time Federal employee appointed by the DoD Sponsor to assist the Sponsor in overseeing and managing the Sponsor's aspects of the Department of Defense Federal Advisory Committee Management Program.

E2.15. Intergovernmental Committee. Any Committee composed wholly of full-time or permanent part-time officers or employees of the Federal government and elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf), acting in their official capacities. The sole purpose of such a Committee shall be to exchange views, information, or advice relating to the management or implementation of Federal programs established pursuant to statute, that explicitly or inherently share intergovernmental responsibilities or administration.

E2.16. Intragovernmental Committee. Any Committee composed wholly of full-time or permanent part-time officers or employees of the Federal government.

E2.17. Non-Discretionary Advisory Committee. Any Committee required by statute or Presidential Directive. A Non-Discretionary Advisory Committee that is required by statute is generally identified by name, purpose, or functions, and its establishment or termination is beyond the legal discretion of the Secretary of Defense.

E2.18. Preparatory Work Meeting. Meetings of two or more Committee members or Subcommittee members convened solely to gather information, conduct research, or analyze relevant issues and facts in preparation for a Committee meeting, or to draft position papers for deliberation by the Committee.

E2.19. Principal Staff Assistant (PSA). Under this Instruction, the term “Principal Staff Assistant” includes the Under Secretaries of Defense, the Assistant Secretaries of Defense, the DoD GC, the Inspector General of the Department of Defense, the Director of Operational Test and Evaluation, the Assistants to the Secretary of Defense, the Director of the National Reconnaissance Office, and other OSD Directors or equivalents who report directly to the Secretary of Defense.

E2.20. Regular Government Employee (RGE). Under this Instruction, the term “Regular Government Employee” refers generally to an individual employed within the meaning of section 2105 of Reference (i), or a Federal officer as defined in section 2104 of Reference (i). For purposes of the GSA’s Federal Advisory Committee Act (FACA) Database only, this category also includes a Federal officer holding a position in the uniformed services.

E2.21. Special Government Employee (SGE). Under this Instruction, the term Special Government Employee refers to an officer or employee of the Executive or Legislative Branch who is retained, designated, appointed, or employed to perform temporary duties (either on a full-time or intermittent basis) not to exceed 130 days during any period of 365 consecutive days.

E2.22. Subcommittee. A group, generally not subject to References (d) and (e), which reports to an Advisory Committee and not directly to a Federal employee or agency, whether or not its members are drawn in whole or in part from the parent Committee.

E3. ENCLOSURE 3

PROCEDURES

E3.1. General Information on Advisory Committees

E3.1.1. Committee Management. Committees play a significant role in shaping public policy by providing independent advice and recommendations on a wide range of issues to the Executive and Legislative Branches. To be effective, these independent entities of the Executive and Legislative Branches must act and, more importantly, be perceived as balanced and independent of any Executive Branch Agency that provides them with support.

E3.1.1.1. Even though DoD-Supported Committees are independent of the Department of Defense and are not considered part of the DoD organizational structure, they shall comply with the policies and procedures prescribed by the Department of Defense, this Instruction, and any rules and regulations governing the use of DoD appropriated funds, pursuant to Reference (d).

E3.1.1.2. All DoD-Supported Committees shall be carefully managed and, unless prescribed by statute, terminated when:

E3.1.1.2.1. The stated objectives have been accomplished, the subject matter or work of the Committee has become obsolete by the passing of time or their functions are assumed by another entity.

E3.1.1.2.2. The authorizing authority determines that the cost of operation exceeds the benefits acquired by the Department of Defense.

E3.1.1.2.3. In the case of a Discretionary Committee, upon the expiration of a period not to exceed 2 years, unless renewed by the authorizing authority.

E3.1.1.2.4. In the case of a Non-Discretionary Committee directed by Presidential Directive, upon expiration of a period not to exceed 2 years, unless renewed by Presidential Directive.

E3.1.1.2.5. In the case of a Non-Discretionary Committee required by Statute, upon the expiration of the time explicitly specified in the statute or implied by operation of the statute.

E3.1.1.2.6. In the opinion of the Secretary of Defense, or designee, the Department of Defense can no longer continue to support the Committee due to a declared National Emergency. If this occurs, the Secretary of Defense, or designee, shall coordinate the termination or realignment of responsibilities with the authority that established the Committee.

E3.1.2. Committee Duration. Regardless of the Committee's enabling authority, no Committee lasts indefinitely.

E3.1.2.1. DoD-Supported Committees may be terminated earlier than the expiration date of their Charter if the President or the Secretary of Defense determine that the Committee is no longer required under paragraph E3.1.1.2.

E3.1.2.2. No Discretionary Committee shall be automatically renewed or able to continue operations beyond the termination date of the Committee's Charter without prior approval from the DA&M.

E3.1.2.3. Notwithstanding the Committee's termination date, the Committee, providing it has funding to cover expenses and obtains the written approval of the DA&M or the CMO, may request its staff be allowed to operate beyond the termination date for the sole purpose of concluding the Committee's administrative activities (i.e., disseminating its final report, inventorying classified information, or archiving the Committee's official records). However, such extensions shall be for no more than 30 days.

E3.1.3. Public Participation. Committees, to the extent possible and pursuant to References (d) and (e), shall open their meetings to the public. The public or interested groups, pursuant to section 102-3.140(c) of Reference (d), shall be allowed to submit written statements to the Committee for its consideration at any time or in response to the stated agenda of a planned meeting; however, the public shall not participate in the Committee member's deliberations, unless otherwise authorized.

E3.1.3.1. The DFO shall ensure that copies of all written statements received from the public or interested groups are provided to each Committee member for their review and consideration. In addition, the DFO shall ensure that copies of all such written statements are archived with the Committee's official records.

E3.1.3.2. The DFO, in consultation with the Committee chairperson, may place limitations (i.e., length of submission and time frame for submission) on written statements submitted in response to the stated agenda for a planned meeting.

E3.1.3.3. The DFO, in consultation with the Committee chairperson, may allow the public or interested groups to address the Committee at a particular Committee meeting. However, prior to the meeting the DFO shall ensure that the Committee's established guidelines and procedures for addressing the Committee are announced in the Federal Register meeting notice.

E3.1.4. Administrative Matters. DoD-Supported Committees may use the U.S. Postal Service in the same manner and under the same conditions as other DoD organizations; however, the use of internal DoD mail distribution facilities shall be at the discretion of the DoD Sponsor. All Committees, unless otherwise authorized by statute, shall comply with existing statutes and international copyright and trademark agreements.

E3.2. Establishment of DoD-Supported Committees and Subcommittees

E3.2.1. Establishment of DoD-Supported Committees. All requests to establish a DoD-Supported Committee shall be submitted to the DA&M through the CMO by the appropriate DoD Sponsor, and all requests, at a minimum, shall contain the elements listed in Appendix 1.

E3.2.1.1 The CMO, on behalf of the DA&M, shall consult the CMS, as appropriate, on the feasibility of establishing a new Committee and provide that information to the DA&M.

E3.2.1.2. Pursuant to Reference (d), the establishment of Discretionary Committees shall be kept to the absolute minimum required, and the decision to establish such Committees shall be at the sole discretion of the Secretary of Defense or designee.

E3.2.2. Establishment Authority for Subcommittees. When a DoD-Supported Committee is authorized to establish Subcommittees, the decision to use them rests not with the Federal government, but with the Committee Chairperson.

E3.2.2.1. Once established the Subcommittee works for the Chairperson and shall report all findings, advice, or recommendations to the Chairperson for deliberation by the full Committee.

E3.2.2.2. If a Committee Chairperson elects to establish a Subcommittee, the DFO shall notify the CMO of the Subcommittee's name, and the CMO shall enter the Subcommittee's name into the Committee's section of the GSA's FACA Database. Once the Subcommittee's name is entered, the DFO shall complete and maintain that portion of the Subcommittee's Database, as required by the CMO and this Instruction.

E3.2.2.3. Subcommittee members, who are not already members of the parent Committee, shall be appointed in the same manner in which Committee members are appointed. In addition, each DoD-Supported Committee shall retain and archive documents pertaining to the Subcommittee, including documentation on the Chairperson's decision to establish the Subcommittee.

E3.2.3. Establishment of Non-Discretionary Advisory Committees as Subcommittees. The DA&M, in consultation with the DoD GC, may establish a Non-Discretionary Committee as a Subcommittee of a previously established DoD-Supported Committee. When such a determination is made the newly established Subcommittee shall comply with all the provisions of the enabling legislation. In addition, the Subcommittee, with the exception of having a filed charter, shall comply with all the provisions of References (d) and (e) that apply to a chartered Committee.

### E3.3. DFO Appointments and Requirements

E3.3.1. DFO Appointment. As the Federal government's representative to the Committee, the DFO works for the DoD Sponsor, the DA&M, and the CMO. The DFO is responsible for ensuring that the Committee complies with the provisions of References (d) and (e), and this Instruction.

E3.3.1.1. Failure to appoint a DFO in a timely manner will adversely affect the Committee's ability to comply with the legal provisions of References (d) and (e). The DoD Sponsor may appoint one individual to perform DFO duties on more than one Committee under the Sponsor's direction.

E3.3.1.2. The DoD Sponsor shall ensure that the person who is appointed as a DFO is a full-time or permanent part-time Federal employee. In addition, the DoD Sponsor shall ensure that the DFO is not a member of the Committee (i.e., the Committee Chairperson or a Committee member) and is not involved in the decision-making process for the Committee in which he or she is performing DFO duties.

E3.3.2. DFO Appointment Letter Composition. Within 10-business days of the DA&M's decision to establish a Discretionary Committee or to appoint a DoD Sponsor for a Non-Discretionary Committee, the DoD Sponsor, or designee, shall appoint a DFO. A copy of the signed appointment letter shall be provided to the GFO and the CMO, and convey, at a minimum, the following information to the DFO:

E3.3.2.1. The name of the DoD-Sponsored Committee to which the DFO has been appointed.

E3.3.2.2. That the DFO, as the Federal government's representative to the Committee, reports to the DoD Sponsor, the DA&M, and the CMO and is responsible for ensuring that the Committee complies with the provisions of References (d) and (e) and this Instruction.

E3.3.2.3. Who the DFO should contact in the DoD Sponsor's GC office to receive the appropriate orientation training on the Committee's ethics requirements and the handling of Financial Disclosure Reports.

E3.3.2.4. That the DFO, when performing his or her responsibilities, shall comply with the provisions of References (d) and (e), this Instruction, and any other duties prescribed by the DA&M or the CMO.

E3.3.2.5. That the DFO shall attend the CMS Federal Advisory Committee Act Course offered by the GSA at the earliest opportunity.

E3.3.3. DFO and Committee Duties. While the DoD Sponsor may assign non-Committee duties to a DFO that it appoints, no Committee shall assign duties or responsibilities to its DFO without prior approval from the DA&M or the CMO.

E3.3.4. Replacement or Removal of DFOs. Any DFO who is unable to perform his or her DFO duties due to reassignment or termination of their service within the Department of Defense shall be replaced. The DFO's appointment may be revoked at any time by the DoD Sponsor or the DA&M when, based on the opinion of the DoD Sponsor or the DA&M, the DFO is not fulfilling his or her legal obligations to the Committee and/or the Department of Defense. The DoD Sponsor shall coordinate all removal actions with the appropriate GC and the CMO. Following removal of the DFO, the DoD Sponsor shall provide a replacement as soon as possible.

E3.3.5. Appointment of Alternate DFOs. Depending upon the circumstances, the DoD Sponsor may appoint one or more DoD employees to serve as Alternate DFOs. When appointed the Alternate DFO shall:

E3.3.5.1. Not be considered a full-time substitute for the duly appointed DFO.

E3.3.5.2. Perform the DFO duties only when the duly appointed DFO, due to unforeseen circumstances (e.g., multiple Subcommittee meetings), is temporarily unable to attend to his or her duties.

E3.3.5.3. Make a public statement at the beginning of the Committee or Subcommittee meeting that he or she is standing in for the DFO on a temporary basis and that he or she has been duly appointed by the DoD Sponsor to act as the Committee's Alternate DFO during the DFO's temporary absence. In addition, the Alternate DFO shall ensure that the meeting minutes reflect that he or she is temporarily representing the Committee's duly appointed DFO.

E3.3.6. DFO Training. Each DoD Sponsor shall provide newly appointed DFOs with the appropriate orientation training on ethics requirements and the handling of Financial Disclosure Reports. In addition, DFOs and Alternate DFOs must attend the CMS Federal Advisory Committee Act Course after initial appointment and every 3 years thereafter, for as long as they remain DFOs or Alternate DFOs.

#### E3.4. Committee Charters

E3.4.1. Preparation of Charters. The CMO, in coordination with the DFO and the DoD GC, shall prepare the Committee's Charter. The CMO shall ensure that the Charter conforms to the elements listed in Appendix 2, complies with References (d) and (e), and any additional CMS guidance. The DFO, as the DoD Sponsor's appointed representative for the Committee, shall be responsible for obtaining any coordination required by the DoD Sponsor.

E3.4.2. CMS Consultation. Subsequent to the DoD GC approval of the draft Charter, the CMO shall request CMS consultation.

E3.4.2.1. For Discretionary Committees, the CMO's written request shall include, at a minimum, an explanation why the Advisory Committee is essential for DoD business and is in the public interest; reasoning why the proposed Committee's functions cannot be performed by the Department of Defense, another existing Committee, or other means, such as a public hearing; and a description of the plan to attain a fairly balanced membership.

E3.4.2.2. With regards to Non-Discretionary Committees, the CMO's written request shall include the Committee's applicable statute or Presidential Directive and provide any additional relevant materials, as necessary.

E3.4.3. Charter Filing Process. Following the CMS consultation, the CMO shall use the following procedures to file the Committee's charter:

E3.4.3.1. Discretionary Committees. The CMO shall submit a Federal Register notice with the OSD Federal Register Liaison Officer (FRLO) announcing the establishment of a Discretionary Committee. Once the Federal Register notice has appeared for 15-calendar days in the Federal Register, the CMO shall file the Charter with the Library of Congress and the appropriate congressional committees. At the same time the Committee's Charter is filed, the CMO shall upload a PDF copy of the Charter to the GSA's FACA Database.

E3.4.3.2. Non-Discretionary Committees. The CMO shall file the Committee's Charter with the Library of Congress and the appropriate congressional committees. In addition, the CMO shall upload a PDF copy of the Charter to the GSA's FACA Database.

E3.4.4. Charter's Official Date. The Charter's official date is the date that the CMO officially transmits the Charter to the Library of Congress and the appropriate congressional committees.

E3.4.5. Charter Changes or Modifications. Once the Charter is filed, the Discretionary Committee may not change its mission or purpose without prior approval from the DA&M. If changes to the Committee's mission are required, the CMO, in coordination with the DoD GC, shall determine what steps are required. Non-Discretionary Committees, on the other hand, shall not change their mission or purpose unless changes are made to the statute or Executive order that established the Committee.

E3.4.6. Renewal of Committee Charters. Charters for all DoD-Supported Committees, unless renewed by the DA&M, terminate 2 years from the date that the CMO filed the Charter.

E3.4.6.1. The DFO shall be responsible for submitting the renewal request, and all renewal requests shall be submitted in writing no later than 90 days before the expiration date of the current Charter.

E3.4.6.2. The DFO, in consultation with the Committee Chairperson, shall submit his or her written request through the DoD Sponsor and the CMO to the DA&M for final determination. The DoD Sponsor shall review the DFO's written request, indicating whether or not the Committee should be renewed or terminated.

E3.4.6.2.1. If the DoD Sponsor recommends renewal of the Committee's Charter, then he or she shall, at a minimum, indicate whether or not the Committee is accomplishing its mission; provide rationale for the Committee's continued operation; specify the Committee's accomplishments with regards to the Department of Defense; explain why the Committee's operations could not be performed by existing DoD resources and/or absorbed by another existing DoD-Supported Committee; and indicate what type of impact the discontinuation of the Committee could have on the Department of Defense.

E3.4.6.2.2. When a DoD Sponsor or designee determines that a Committee Charter shall not be renewed, then he or she shall indicate the Committee's past accomplishments regarding the Department of Defense, how soon Committee termination should occur, and whether or not legislative action is required for termination.

E3.4.6.3. All Charter renewal requests shall be submitted to the CMO for action no later than 90 days before the current Charter expires. Failure to submit the renewal request within the prescribed timeframe may result in the Committee having to suspend its operations until the renewal request is acted upon, or the CMS determines that the Department of Defense shall re-establish the Committee.

E3.4.6.4. If the renewal request is disapproved, then the Committee shall terminate all actions no later than its scheduled termination date unless the DA&M authorizes the Committee staff an additional period of time to close-out administrative actions pertaining to the Committee. Regardless of whether or not a Discretionary Committee is given additional time to carry out its termination, the DFO, in consultation with the CMO, shall ensure that:

E3.4.6.4.1. All DoD personnel detailed to the Committee are returned to their parent organizations with the appropriate personnel evaluations.

E3.4.6.4.2. All National Security Information provided to the Committee is returned to the appropriate Federal agencies or disposed of pursuant to existing statutes, Executive orders, and regulations.

E3.4.6.4.3. The Committee's official records, pursuant to DoD policies and procedures, are archived and transferred to the National Archives and Records Administration (NARA) within 30 days of the Committee's official termination date.

E3.4.6.4.4. All Federal government property is accounted for and disposed of pursuant to existing DoD policies and regulations and that all Federal government-leased office space is returned to the appropriate authorities.

E3.4.6.4.5. The Committee's ACR is current and ready for CMO and CMS verification, and if appropriate, the Committee completes the Annual Closed or Partially-Closed Report.

### E3.5. Committee Member Selection and Appointment Process

E3.5.1. Committee Member Selection. Individual Committee members shall be free from significant conflicts of interest to ensure that Committee members provide independent and balanced advice to the Federal government. While the CMO is not involved in the Committee

member selection or approval process, the CMO shall be immediately advised of any changes to the membership numbers or selection process that may impact the Committee's Charter.

E3.5.2. Committee Chairperson Selection Process. All DoD-Supported Committees, unless otherwise prohibited by statute or Executive order, shall have a Chairperson, and the selection process shall be mentioned in the Committee's Charter. If the authorizing authority or the Committee's Charter does not indicate how the Chairperson shall be selected, then the Committee members shall select the Chairperson by majority vote.

E3.5.3. Committee Member Nominations. All Committee member nominations shall be handled in a confidential manner until the nominations have been approved.

E3.5.3.1. The DoD Sponsor, unless otherwise directed by statute or Presidential directive, shall nominate to the Secretary of Defense qualified individuals to serve as Committee members, including Federal officers and employees.

E3.5.3.2. Any discussion with the nominee about his or her participation on the Committee shall be limited until the Secretary of Defense or designee has approved the nominee's appointment.

E3.5.3.3. The DoD Sponsor, in developing a list of candidates, may assess the points of view of prospective candidates, including published articles, testimony, speeches, various legal forums (particularly legal testimony), research conducted on related matters, sources of funding for research and other similar activities, and interests of their employers or clients in specific areas. The DoD Sponsor may include candidates with demonstrated professional or technical qualifications when Committee membership requires technical expertise.

E3.5.3.4. The Secretary of Defense, unless otherwise directed, shall determine the actual number of Committee members to be appointed and any special qualifications required. Once approved by the Secretary of Defense and appointed, all Committee members, unless otherwise authorized by statute or Executive order, shall serve at the discretion of the Secretary of Defense.

E3.5.4. Committee Member Appointments and Reappointments. Once Committee member nominations are approved by the Secretary of Defense, the DoD Sponsor may proceed with the appointment process for approved Committee members. Prospective Committee members, who are not full-time or permanent part-time Federal employees, unless otherwise authorized by

statute or Executive order, shall be appointed on an annual basis pursuant to section 3109 of Reference (i), and shall be considered a Special Government Employee (SGE). Concurrent appointments as an SGE may be held with other DoD-Supported Committees or in another Federal agency.

E3.5.5. Committee Member Appointment Process. The DoD Sponsor's personnel office, pursuant to existing statutes, regulations, and this Instruction, shall process the necessary paperwork to appoint individual Committee members who are not current Federal employees as either experts or consultants, pursuant to Reference (i), or full or part-time Federal government employees, as appropriate.

E3.5.5.1. All prospective Committee members, when formally notified of their appointment by the appropriate DoD Sponsor, shall be advised of their appointment authority (e.g., section 3109 of Reference (i)), and whether they are considered a SGE or Regular Government Employee (RGE).

E3.5.5.2. No prospective Committee member shall be officially appointed until the DoD Sponsor's personnel office and the appropriate GC have completed all administrative matters pertaining to the Committee member's appointment. Administrative matters, at a minimum, shall include compliance with Federal government ethics requirements by filing the necessary Financial Disclosure Reports and certification by the Federal government's reviewing authority and completing the required personnel paperwork (e.g., appointment affidavits, proof of citizenship, security clearances, if required).

E3.5.5.3. While each DoD Sponsor may require Committee members to complete Component-unique personnel forms, all Committee members who are not full-time Federal officers or employees, when appointed, shall be required, at a minimum, to complete the paperwork listed in Appendix 3. Notwithstanding, the DoD Sponsor's personnel office or the appropriate GC may accept previously submitted appointment paperwork that the prospective Committee member filed for a different Committee or another appointment, as long as the paperwork is verified as current.

E3.5.6. Committee Member Reappointment Process. Committee members may be reappointed once their one-year appointment expires; however, they cannot conduct Committee business until their reappointment is approved. In coordination with the Committee Chairperson and under the authority, direction, and control of the DoD Sponsor, the DFO shall request reappointment of the appropriate Committee members.

E3.5.6.1. All reappointment requests shall be forwarded to the Secretary of Defense no later than 60 days prior to the Committee member's appointment expiration date. If the approving authority approves the reappointment then the DoD Sponsor, in coordination with the DFO, shall ensure that the Committee member completes all the required paperwork prior to his or her reappointment.

E3.5.6.2. Committee members who are SGEs shall file a new Financial Disclosure Report along with providing the DoD Sponsor's personnel office a current resume or curriculum vitae.

E3.5.7. Committee Member Resignation Process. Committee members may resign their appointment at any time prior to the termination of their appointment. Resignations shall be submitted to the Committee Chairperson in writing, and the Chairperson or the DFO shall notify the CMO, the DoD Sponsor, and the DoD Sponsor's personnel office. The DoD Sponsor, if necessary, shall nominate a replacement pursuant to the policies of this Instruction.

E3.5.8. Committee Member Appointment Limitations. Pursuant to section 202 of 18 U.S.C. (Reference (l)), no SGE shall serve as a Committee member for more than 130 days in any consecutive 365-day period.

### E3.6. Committee Staffing Process

E3.6.1. Staffing. The Department of Defense does not fund manpower authorizations for DoD-Supported Federal Advisory Committees. Instead, the Department of Defense normally assists the Committee by hiring Federal employees, or consultants, contracting for external contractors, or detailing Federal employees from other Federal Agencies.

E3.6.1.1. Within the Federal government, the normal procedure is to provide staffing support using full-time or permanent part-time Federal employees, including members of the Military Services, from the Federal agency that supports the Committee. This process of detailing personnel is normally done on a non-reimbursement basis.

E3.6.1.2. While the DoD Sponsor may be involved with establishing the Committee or determining its approved funding levels, the actual makeup of the Committee staff (i.e., the number of staff or the required skill sets) is typically determined by the Committee's Executive or Staff Director and shall be kept to the minimum number of people required to accomplish the Committee's mission goals and objectives.

E3.6.2. Detailing DoD Personnel. Committees, unless prohibited by statute or Executive order, may request that full-time or permanent part-time DoD employees, including members of the Military Services be detailed, without reimbursement, to assist the Committee with its work.

E3.6.2.1. The use of detailed members of the Military Services shall be kept to an absolute minimum and shall be approved only when deemed essential, pursuant to paragraph 3.2.3 of DoD Directive 1100.4 (Reference (m)).

E3.6.2.1.1. Only full-time or permanent part-time DoD employees or members of the Military Services officially assigned to the locality of the Committee's official location shall be considered for detail. Individuals that possess unique skills or expertise who are stationed outside of the Committee's official locality may be considered for a short-term detail; however, such individuals shall be detailed only in a temporary duty (TDY) status, and the Committee shall pay all TDY costs associated with the individual's TDY assignment.

E3.6.2.1.2. The DFO shall ensure that performance evaluations of Federal employees, to include members of the Military Services, are completed pursuant to applicable DoD or Military Service policies and procedures.

E3.6.2.1.3. The needs of the Military Services and individual career development, to include promotion implications, shall be the overriding factors when evaluating a Committee's request to detail members of the Military Services to Committees.

E3.6.2.1.4. The duty of commissioned officers of the Military Services who are detailed to Committees or serve as Committee members shall not be considered as joint duty pursuant to Chapter 38 of 10 U.S.C. (Reference (n)). In addition, the duty of members of the Uniformed Services who are detailed to Committees or serve as Committee members shall not be considered eligibility toward the award of Defense Decorations, the OSD Identification Badge, or the Joint Staff Identification Badge.

E3.6.2.2. When a Committee is initially established or the charter for an existing Committee is renewed, the DA&M, in coordination with the DoD GC, shall determine whether the Committee shall comply with the policies and procedures outlined in DoD Directive 1000.17 (Reference (o)).

E3.6.2.3. Committees that are required to comply with Reference (o) shall submit their detail requests through their DoD Sponsor to the appropriate approval authority.

E3.6.2.4. Committees that are not required to comply with Reference (o) shall submit their detail requests to the appropriate DoD Sponsor for action.

E3.6.2.4.1. To minimize costs and personnel disruption, the DoD Sponsor shall determine if he or she has adequate resources to meet the requested requirements. If the DoD Sponsor lacks adequate resources, he or she may deny the Committee's request or seek assistance from another DoD Component within the Committee's official locale.

E3.6.2.4.2. On a quarterly basis, the DFO shall provide the CMO with a list of all DoD personnel who have been detailed to the Committee. This list shall indicate the name, rank, occupational specialty, parent organization, date of detail to the Committee, duration of detail, approval authority for the detail (list parent organization and DoD Sponsor), and the detailed member's date of return to his or her parent organization. The CMO shall maintain this information on a permanent basis with the CMO's official files.

E3.6.3. Hiring Committee Staff. Prior to hiring any Committee staff, the DoD Sponsor, in consultation with the appropriate GC and Human Resources Office, shall determine what level of support the Department of Defense can provide to the Committee.

E3.6.3.1. Congressional Authority. Occasionally, Congress will provide specific hiring authority for Non-Discretionary Committees. In addition, some Discretionary and Non-Discretionary Committees may qualify for temporary authority under section 3161 of Reference (i), which provides the authority to hire temporary Federal employees.

E3.6.3.2. Agency Authority. The DoD Sponsor may authorize the Committee to hire full-time or permanent part-time DoD employees, consultants or contractors, depending on the appropriations granted to the Committee by the Department of Defense and pursuant to established Component policies and procedures.

E3.6.3.2.1. When a long-term Committee does not have congressional authority to hire staff personnel, the DoD Sponsor may determine that a small, permanent full-time Committee staff (e.g., the Office of the Military Director for the Defense Advisory Committee on Women in the Services) is in the best interest of the Department of Defense.

E3.6.3.2.2. When such a determination is made, the DoD Sponsor may align the Committee staff under any organization that is formally assigned to the DoD Sponsor by applicable statutes, DoD regulations, subject to the funding limitations and restrictions of the DoD Sponsor and the Committee. Both the DoD Sponsor and authorized permanent Committee staff shall exercise caution in order to maintain transparency of the Committee's work, to ensure that the DoD Sponsor or other DoD officials are not influencing the Committee's work through the permanent Committee staff, and to ensure that the Committee does not interfere with the responsibilities of the DoD Sponsor or other DoD officials through inappropriate use of the Committee's permanent staff.

### E3.7. Compensation

E3.7.1. Member Compensation. Committee members, unless otherwise authorized by statute, normally do not receive compensation for their service on the Committee. However, in cases in which the DA&M has determined that certain Committees shall be sponsored by the Military Departments, and the Secretary of Defense and the Secretaries of the Military Departments are authorized to administratively determine pay, these entities, unless otherwise prohibited, may authorize the compensation of Committee members when deemed essential and pursuant to section 102-3.130(d) of Reference (d) and established DoD policies.

E3.7.2. Committee Staff Compensation. Committee staff shall be compensated for their work on the Committee. When the Secretary of Defense or the Secretaries of the Military Departments, pursuant to section 102-3.130(e) (Reference (d)) and established DoD policies, are authorized to determine the compensation of Committee staff, then they shall do so pursuant to Reference (d).

### E3.8. Government Ethics

E3.8.1. Ethics and Conflict of Interest Requirements. All Committee members and Committee staff, unless otherwise determined by the DoD Sponsor's GC, shall comply with the standards of ethical conduct for employees of the Federal government, pursuant to DoD 5500.7-R (Reference (p)). Any questions pertaining to ethical issues, particularly representational activities, as set forth in sections 203, 205 and 207 of Reference (l), shall be handled by the DoD Sponsor's GC. Additionally, the DFO shall assist the DoD Sponsor's GC with ensuring the Committee's compliance with the appropriate ethics and conflict of interest rules by:

E3.8.1.1. Ensuring effective training and timely dissemination of information on ethical standards, procedures, and compliance for the Committee, including potential restrictions on post-government employment.

E3.8.1.2. Maintaining records on all Committee members and Committee staff who receive conflict of interest training and counseling.

E3.8.1.3. Notifying the appropriate DoD agencies of any allegations of potential misconduct by Committee members or Committee staff.

E3.8.2. Handling Completed Financial Disclosure Reports. All completed Financial Disclosure Reports shall be protected from unauthorized access or disclosure. No one within the Department of Defense, other than the individual who is filing the Financial Disclosure Report and the appropriate GC, shall retain copies of completed Financial Disclosure Reports.

E3.8.2.1. The DFO, who is normally the DoD Reviewing Official for Financial Disclosure Reports, shall review all Financial Disclosure Reports to determine if the filer has a potential conflict of interest. When determining whether a potential conflict of interests exists, the DFO shall also consult with the appropriate GC. The DFO's review shall take place prior to the individual being appointed, reappointed, or hired.

E3.8.2.2. If a conflict of interest exists, the DFO, in consultation with the DoD Sponsor's GC, shall determine whether a conflict-of-interest waiver shall be granted or if the person shall be replaced. The DFO, at the Committee's public meeting, shall notify the Committee of any conflict-of-interest waivers that are granted. The DFO's announcement shall only indicate the name of the individual concerned and the type of waiver granted.

E3.8.2.3. To facilitate communications between the DoD Sponsor's GC and the individual filers, the DFO shall provide the GC with an e-mail address for each person on the Committee who is required to file a Financial Disclosure Report. The e-mail addresses shall be provided at the same time the Financial Disclosure Reports are filed with the DoD Sponsor's GC, and the e-mail address provided shall be one that the individual checks frequently.

E3.8.3. Annual Submission of Financial Disclosure Reports. Individuals required to file a financial disclosure report (OGE Form 450, “Confidential Financial Disclosure Report” or approved alternative form, or Standard Form 278, “Executive Branch Personnel Public Financial Disclosure”), who remain on the Committee, shall file a new financial disclosure report no later than one year after the previous report was submitted. The DFO shall ensure that each person files a new financial disclosure report and that anyone who fails to comply with the annual submission requirement shall be prohibited from participating in any Committee work until the report is filed.

E3.8.4. Foreign Activities Questionnaire. All SGEs shall file a DD Form 2859 with the DoD Sponsor’s GC prior to their appointments. A new DD Form 2859 shall be filed with the DoD Sponsor’s GC prior to their reappointment. The DFO, unless otherwise directed, shall ensure that the Committee member complies with initial and subsequent submissions of the DD Form 2859.

### E3.9. Security Management

E3.9.1. Disclosure of National Security Information. All DoD-Supported Federal Advisory Committees shall comply with DoD 5200.1-R (Reference (q)). Furthermore, no Committee member or Committee staff, including individuals who are detailed to the Committee, shall be provided access to National Security Information without the appropriate security clearances, “need to know,” and completed Standard Form 312, “Classified Information Non-Disclosure Agreement.” Non-government employees (e.g., contractors) who are employed by the Committee shall have an approved contract and DD Form 254, “DoD Contract Security Classification Specification,” on file with the Department of Defense.

E3.9.2. Safeguarding National Security Information. The DFO shall be responsible for safeguarding all National Security Information that is provided to DoD-Supported Committees and ensuring that Committees comply with DoD policies and procedures that deal with National Security Information.

E3.9.3. Security Manager Appointments. A full-time or permanent part-time Federal employee shall be appointed as a Security Manager for all DoD-Supported Committees. This individual shall work under the authority, direction, and control of the Committee’s DFO and shall comply with Reference (q) and all other Directives or Instructions that are issued by the DoD Sponsor’s Security Manager, or the WHS Security Manager for the Committees that the DA&M has directed the Department of Defense, Washington Headquarters Services (WHS), to support. Committee security managers shall be trained and receive support from the Committee’s senior leadership.

E3.9.4. Documentation. Receipts for classified material shall be used by all Federal Agencies that provide National Security Information to DoD-Supported Committees, and the Committees shall retain copies of all receipts that are provided. Copies of all receipts shall be provided to the DoD Sponsor’s security manager upon request, or when the Committee terminates its operations.

E3.9.5. Security Reviews. Any DoD-Supported Committee that receives National Security Information from any Federal agency shall obtain the appropriate security reviews prior to the release of information to the public. Releases to the public include, but are not limited to, news releases, public reports and open meetings.

E3.9.5.1. During the security review, DoD officials may propose changes to the Committee's documents to ensure classified material is not compromised and that documents have the proper security classification. However, no DoD officials shall make editorial changes to any Committee document that impacts the Committee's statutory and regulatory role to provide "independent advice and recommendations" to the Executive and/or Legislative Branches.

E3.9.5.2. The Committee shall retain copies of the security reviews and archive them with the Committee's records.

#### E3.10. Travel and Transportation Procedures

E3.10.1. Travel and Transportation for Committee Members and Staff. Pursuant to the Joint Federal Travel Regulations (JFTR), Volume 1 (Reference (r)) and JFTR, Volume 2 (Reference (s)), Committee members and staff may travel on military transportation assets when travel is required to perform official Committee business, except when the cost of commercial transportation is less expensive. Travel through commercial means shall be in a manner consistent with References (r) and (s).

E3.10.2. All official travel by Committee members and staff, with the exception of non-government employees (e.g., contractors), that takes place outside of the vicinity of the Committee's official address or the Committee member's primary residence or place of business shall be on official TDY orders issued by the Department of Defense.

E3.10.2.1. The Department of Defense, through the DoD Sponsor and pursuant to existing DoD rules and regulations, may issue the necessary TDY orders for the Committee or provide the Committee the ability to issue its own TDY orders.

E3.10.2.2. Committee members required to travel on official Committee business prior to their appointment to the Committee, shall travel on Invitational Travel Orders (ITO) issued by the DoD Sponsor. Such travel would normally be to receive administrative information from DoD employees prior to taking the oath of office (e.g., ethics briefings).

E3.10.3. Premium-Class Travel Accommodations. No Committee member, Committee staff, or guests of any DoD-Supported Committee, unless specifically authorized, shall use DoD appropriated funds to pay for premium-class travel accommodations, as defined by the Department of Defense. Exceptions to this policy, when required, shall only be authorized by:

E3.10.3.1. The DA&M when the DoD Sponsor is one of the OSD PSAs, Defense Agencies, or Defense Field Activities.

E3.10.3.2. The Secretaries of the Military Departments for the respective Committees in which the DA&M has designated them as DoD Sponsors (e.g., the Secretary of the Army is the DoD Sponsor for the Army Education Committee). The Secretaries of the Military Departments may delegate this authority, but no lower than the Assistant Secretary level provided that the delegated authority is not serving in any capacity on the respective Committee.

E3.10.3.3. The Chairman of the Joint Chiefs of Staff for those Committees that the DA&M designated him or her as the DoD Sponsor. The Chairman of the Joint Chiefs of Staff may delegate this authority, but no lower than the Director of the Joint Staff.

E3.10.4. Personal Assistants for Committee Members with Disabilities. Any Committee member with disabilities who is entitled to the services of a Personal Assistant, pursuant to section 3102 of Reference (i) and Section 501 of the Rehabilitation Act of 1973, as amended, (Reference (t)), shall be authorized to have the Personal Assistant accompany them on official Committee business. The Personal Assistant shall travel on official TDY orders and be entitled to the same travel and transportation allowances authorized for the Committee member he or she is accompanying and when required by the Committee member's disability, shall be authorized, if required, seating adjacent to the Committee member.

#### E3.11. Financial Management

E3.11.1. Committee Financial Management. Financial disclosure by the Committee, its Committee members, and, when appropriate, its Committee staff is key to the integrity of the Committee and the overall Department of Defense Federal Advisory Committee Management Program. Each Committee shall establish comprehensive policies and procedures to govern their financial management practices and maintain financial records to support expenditure of public funds, enforcement of travel regulations, and adherence to DoD Directive 5015.2 (Reference (u)).

E3.11.2. Funding Source. DoD-Supported Committees, unless funded by statute, Presidential Directive, or otherwise determined by the Office of the Under Secretary of Defense (Comptroller) (USD(C)), shall be funded from amounts appropriated for the Department of Defense for operation and maintenance accounts.

E3.11.2.1. The DoD Sponsor, through their Comptroller, shall provide funding for the Committee's operation in keeping with budget guidance issued by the USD(C). All appropriated DoD funds remaining after termination of the Committee shall revert to the Department of Defense pursuant to existing statutes, Executive orders, and regulations.

E3.11.2.2. The Committee's DoD Sponsor, when determining funding levels for the Committees that it sponsors, shall prescribe what budget submission documentation is required.

E3.11.2.3. Whenever the Chairman of the Joint Chiefs of Staff is designated the DoD Sponsor, adequate support for the Committee, including funding, unless otherwise directed by the Chairman of the Joint Chiefs of Staff, shall be provided by the organization that the

Committee is providing independent advice and recommendations to (e.g., the United States Strategic Command Advisory Group shall be provided adequate support by the U.S. Strategic Command).

E3.11.3. Funding Levels. The Department of Defense, pursuant to its budget restrictions, may be unable to provide full funding for the Committee. As a consequence, actual funding levels for DoD-Supported Committees, unless otherwise stated, shall be determined by the DoD Sponsor.

E3.11.4. Funding Limitations. DoD Sponsors shall ensure that no DoD appropriated funds are expended for Committee operations prior to the approval of the Committee members' appointment by the appointing authority.

E3.11.4.1. The DoD Sponsor, prior to the appointment of Committee members, may authorize the expenditure of DoD appropriated funds for the purpose of procuring infrastructure support (e.g., Information Technology, telecommunication), leasing agreements, or to enable Committee members, prior to taking their oath of office, to attend an Administrative or Preparatory Work Meeting. The DoD Sponsor may delegate this authority, but no lower than the Assistant Secretary level or the three-star flag officer equivalent provided the delegated authority is not serving in any capacity on the Committee in question.

E3.11.4.2. The DoD Sponsor shall ensure that no DoD-appropriated permanent change of station (PCS) funds are used to support the Committee's operations for either PCS or permanent change of assignment moves unless he or she has authorized the hiring of full-time or permanent part-time DoD employees on to the Committee, including members of the Military Services, pursuant to existing statutes, Executive orders, and regulations.

E3.11.5. Financial Transactions and Internal Controls. DoD-Supported Committees are obligated to develop comprehensive financial management policies and procedures, including internal controls over financial transactions. When possible, DoD officials may assist with developing the appropriate policies, procedures, and internal controls; however, the responsibility rests solely with the Committee.

E3.11.5.1. To meet these obligations, the Department of Defense recommends that the Committee, in consultation with its DFO, review account balances on a regular basis to identify unusual account balances, retain sufficient evidence in transaction files to show that all transactions have been properly approved for payment, and monitor the prompt processing of vendor invoices upon receipt so that vendors are accurately paid in a timely manner.

E3.11.5.2. The Department of Defense suggests that the Committee focus on two areas of special interest:

E3.11.5.2.1. Travel Records. The Committee shall ensure that travelers provide appropriate documentation to support airfare transactions, including a payment receipt, boarding pass receipts and/or an itinerary from the appropriate DoD Commercial Travel Office that shows the amount of airfare that was paid and serves as proof that travel occurred. In addition, the Committee shall retain completed travel vouchers as evidence that the designated travel occurred and to support amounts claimed for reimbursement.

E3.11.5.2.2. Contract Files. The Committee shall maintain contract files, including contract awards and administration, to document the basis for Committee decisions to acquire goods and services from commercial vendors, to document each step in the acquisition process, and to document information to supplement an external review of the procurement process. In addition, the Committee shall ensure that all statements of work contain a provision on organizational conflicts of interest and that contract files contain signed assurances that contractors do not have an organizational conflict of interest.

### E3.12. Committee and Subcommittee Meetings

E3.12.1. Authority to Call Committee or Subcommittee Meetings. Only the DFO can call a Committee or Subcommittee meeting, and the DFO shall attend all Committee and Subcommittee meetings. Furthermore, no meeting shall be held unless the DFO approves the agenda in advance and is present for the meeting, there is a majority of Committee members present for the meeting, and the Committee or Subcommittee fully complies with the open-meeting requirements of References (d) and (e), and this Instruction.

E3.12.2. Open-Meeting Requirements. All Committees shall ensure that their open meetings are held at a reasonable time and in a manner or place reasonably accessible to the public. Unless the Department of Defense has authorized the Committee to close the meeting under the provisions of section 552b(c) of Reference (i), interested persons or groups, to the extent possible shall be permitted to attend the Committee's meeting.

E3.12.3. Closed-Meeting Determinations. All requests to close a Committee meeting or Subcommittee meeting, when appropriate, shall be submitted in writing by the DFO to the appropriate DoD Sponsor for determination.

E3.12.3.1. The DFO's request shall cite the specific provisions of section 552b(c) of Reference (i) that justifies closure.

E3.12.3.2. Requests shall be submitted in a timely manner to ensure the Committee complies with the 15-calendar day requirement for the Federal Register meeting notice. Failure to administratively handle the necessary paperwork shall not be considered as a reason for the CMO to grant a waiver to the 15-calendar day publication requirement.

E3.12.4. Committee Meetings. All Committee meetings, to the extent possible, shall be open to the public; however, no Committee, unless otherwise directed by the authorizing authority, shall allow the public or interested parties to participate in Committee deliberations.

Any facility used to hold a Committee meeting shall be readily accessible to persons with disabilities, pursuant to section 504 of Reference (t), and sufficient to accommodate Committee members and staff and a reasonable number of interested members of the public.

E3.12.5. Subcommittee Meetings. Even though most Subcommittee meetings are exempt from the open-meeting provisions of References (d) and (e), the Chairperson may direct that his or her Subcommittees comply with the open-meeting requirements of References (d) and (e).

E3.12.5.1. Notwithstanding, the full provisions of References (d) and (e), including the open-meeting requirements, apply to any Subcommittee that meets any of the following conditions:

E3.12.5.1.1. The Subcommittee provides advice or recommendations to a Federal employee who is not a member of the Subcommittee or the parent Committee.

E3.12.5.1.2. The parent Committee fails to deliberate on the Subcommittee's advice or recommendations prior to submitting it to the final Federal government decision maker, or to a Federal officer or employee, who is not a member of the parent Committee.

E3.12.5.1.3. It is known, prior to the Subcommittee's submission of advice and recommendations to the parent Committee that the parent Committee will not deliberate on the Subcommittee's advice and recommendations.

E3.12.5.2. When any of the conditions described in paragraph E3.12.5.1 occur, the Department of Defense, at a minimum, shall file a separate Charter for the Subcommittee, appoint a DFO for the Subcommittee, direct the Subcommittee to comply with the provisions of References (d) and (e), and count the Subcommittee against DoD's Discretionary Federal Advisory Committee ceiling.

E3.12.6. Combined Committee Meetings. Even though References (d) and (e) do not prohibit two separate Committees from having a combined Committee meeting, DFOs shall exercise caution when considering the feasibility of combining meetings.

E3.12.6.1. In such cases, specific ground rules must be developed and published in the Federal Register meeting notice indicating who will lead the meeting, how joint meeting minutes will be recorded and that they will be signed by both Committee Chairpersons, and how Committee voting will be handled.

E3.12.6.2. Any DFOs that are considering holding combined Committee meetings are strongly encouraged to consult with their Sponsor's GC, GFO, and the CMO before proceeding.

E3.12.7. Virtual Committee or Subcommittee Meetings. Committees, with teleconferencing technology, may conduct virtual Committee or Subcommittee meetings. However, they shall comply with all the Committee or Subcommittee meeting requirements, including open or closed meeting requirements, pursuant to References (d) and (e) and this Instruction. In addition, the DFO shall inform the public through the Federal Register notice of the procedures they need to follow if they desire to observe the meeting.

E3.12.8. Committee Member Attendance. When a Committee member cannot attend a scheduled Committee or Subcommittee meeting, the Committee Chairperson or DFO may authorize the Committee member to send a non-Committee member substitute to attend the meeting. However, this person, who travels on ITO orders, shall be prohibited from engaging in any deliberations or casting a vote for the person they represent. In addition, this person shall not be considered to determine whether a majority of Committee members are present.

E3.12.9. Federal Register Notice Requirement. The DFO, pursuant to References (d), (e), and (i), shall file all Federal Register meeting notices with the DoD Component FRLO early enough to ensure that the meeting notice appears in the Federal Register for at least 15 calendar days prior to the actual date of the meeting.

E3.12.9.1. Multiple meeting notices may be announced in a single Federal Register notice; however, if the Committee subsequently has to make changes to the announced schedule, then the DFO shall announce the changes and ensure that the notice complies with the 15-day rule.

E3.12.9.2. The DFO shall ensure that every Federal Register meeting notice includes information on the public's right to submit written statements to the Committee at any time or in response to the stated agenda of a planned meeting, and how they should go about submitting statements to the Committee.

E3.12.9.3. The DoD Component FRLO shall not process any DoD-Supported Committee's Federal Register notice that does not comply with the 15-calendar day requirement, without prior written approval from the CMO. The CMO shall provide the DFO with specific language for inclusion in the Federal Register notice that explains the basis for the CMO's waiver. Copies of the CMO's waiver shall be made available to the public upon request, and retained in the Committee's official records.

E3.12.10. Committee and Subcommittee Meeting Minutes. Meeting minutes or transcripts, pursuant to Reference (d), shall be kept and the appropriate Chairperson shall certify the accuracy of the minutes within 90 calendar days of the meeting. With regard to Administrative and Preparatory Work meetings, the DFO shall ensure that a summary of the meeting is maintained, to include a listing of who attended the meeting, and this information shall be maintained in the Committee's official records.

E3.12.10.1. The DFO, as appropriate, shall ensure that the minutes are certified by the Chairperson no later than 90 calendar days after every Committee or Subcommittee meeting, and that PDF copies of all unclassified Committee meeting minutes or the Closed-Meeting Summaries are uploaded onto the GSA's FACA Database.

E3.12.10.2. Committee and Subcommittee meeting minutes shall contain, at a minimum, the following:

E3.12.10.2.1. The time, date, and location of each meeting; an accurate description of each matter that was discussed; and the Committee's resolution, if any.

E3.12.10.2.2. A list of the persons who were present at the meeting, to include Committee members and staff, Agency employees, and any members of the public who presented oral or written statements.

E3.12.10.2.3. Copies of each report or other document received, issued, or approved by the Committee members at the meeting.

### E3.13. Committee Printing Requirements and Committee Reports

E3.13.1. Committee Printing Requirements. All DoD-Supported Committees, unless otherwise directed by DoD Instruction 5330.03 (Reference (v)), shall use DAPS for its printing requirements, including Committee reports and products that are unique to a Committee's identity (e.g., logos, letterhead, custom note pads).

E3.13.1.1. Committee Logos and Seals. Since DoD-Supported Committees provide independent advice and recommendations, and are not considered part of any DoD organizational structure, the Department of Defense discourages the use of any DoD-related seals or logos. Committees may use the Great Seal of the United States, but no Committee, unless authorized by statute or Presidential directive, shall use the Seals of the President, Vice President, U.S. Congress, U.S. House of Representatives, or U.S. Senate in products developed or used by the Committee.

E3.13.1.2. Publishing Files. All Committees shall ensure that the Federal government retains any electronic files used by DAPS or a commercial company to publish the Committee's reports. When the Committee terminates its operations these files shall be retained by the CMO for subsequent printing requirements, if necessary.

E3.13.2. Committee Reports. Normally, each Committee publishes a printed report that provides the Federal government with the Committee's advice and recommendations.

E3.13.2.1. Committee Report Distribution. While the Committee's enabling authority normally specifies who receives the Committee's report, section 102.3-175(d) of Reference (d) requires that eight copies of all Committee reports, including background papers prepared by consultants, be sent to the Library of Congress. The DFO shall comply with this requirement

and provide the CMO a copy of the Committee's transmittal letter within 30 days of a Committee's report being published,

E3.13.2.1.1. Pursuant to section 1042 of Pub. L. No. 107-107 (2001) (Reference (w)), Committees that are required to submit reports to any of the DoD congressional oversight committees shall also send a PDF copy of the report to all other DoD congressional oversight committees. If the report is classified, the Committee shall make special delivery arrangements with the DoD congressional oversight committees.

E3.13.2.1.2. All Committees shall provide one copy of every unclassified Committee report to the Pentagon Library, the libraries that service the Service Academies and the Military Services' commissioned and noncommissioned officer professional military education programs.

E13.2.2. Draft Versions of Reports. For each report published, Committees shall maintain and archive with their official records all draft copies and comments by the Committee members on each version. This enables the public to follow the logic the Committee used in reaching its conclusions, recommendations, and advice.

E3.13.2.3. Statutory Reports. Pursuant to References (d) and (e), each Executive Branch Agency is required to submit annual reports in reference to the Committees that they support. The CMO is required to submit the ACR and the Closed or Partially-Closed Meeting Report each fiscal year. Each DFO shall verify their ACR and submit an Annual Report of Closed or Partially-Closed Committee or Subcommittee meetings no later than October 15 of each year.

#### E3.14. Committee Management Records

E3.14.1. Department of Defense Federal Advisory Committee Management Program Records. All records pertaining to the Department of Defense Federal Advisory Committee Management Program shall be maintained and preserved pursuant to Reference (u).

E3.14.1.1. DoD offices, as determined by the CMO, shall retain appropriate records that pertain to the Department of Defense Federal Advisory Committee Management Program. For example, the DoD GC for OSD Sponsored Federal Advisory Committees, instead of the CMO's office, shall retain copies of Committee member and staff confidential financial records pursuant to established statutes, Executive orders, and regulations.

E3.14.1.2. All Committee records, pursuant to section 3301 of 44 U.S.C. (Reference (x)), shall be considered property of the Federal government and retained pursuant to existing statutes, Executive orders, and regulations. Pursuant to section 552 of Reference (i), any records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agendas, or other documents that were made available to or prepared for or by a Committee shall be available for public inspection and copying at a single location until the Committee ceases to exist. Normally, these documents will be located at the Committee's office; however, if the documents are located elsewhere, then the DFO shall ensure that the location of the documents is announced in the Federal Register.

E3.14.2. Transferring and Archiving of Committee Records. All DoD-Sponsored Committees, unless otherwise directed by statute, Executive order, or regulation shall immediately archive and transfer their official records to NARA upon termination.

E3.14.2.1. The maintenance and preparation of Committee records for transfer to NARA shall be done pursuant to Reference (u) and 36 Code of Federal Regulations 1128, subpart L (Reference (y)).

E3.14.2.2. Long-term Committees may transfer historical records to NARA at any time prior to their actual termination (e.g., in 2006, the U.S. Air Force Scientific Advisory Board elected to transfer all of its previous records to NARA, even though the Committee's Charter was renewed by the Secretary of Defense).

E3.14.2.3. When the Committee's official records are transmitted to NARA the Committee shall include in the archived records two printed copies of the Committee's final report.

E3.14.3. Freedom of Information Requests. The public is not required to submit Freedom of Information Act (FOIA) requests when seeking committee records that are not exempt from release under the FOIA statute. However, if there is a reasonable expectation that the records fall within a FOIA exemption, the public may be required to submit a FOIA request.

### E3.15. FACA Database System

E3.15.1. FACA Database. The CMS maintains a FACA Database, which the CMO, the GFOs, and the DFOs shall update on a regular basis. This database is used by Congress, the Executive Office of the President, the public, and the media to stay abreast of developments within each Committee and the Executive Branch's Federal Advisory Committee Management Program.

E3.15.1.1. The CMO shall establish the Committee's database file in the FACA Database when the Committee's Charter is initially filed.

E3.15.1.2. Since the FACA Database is regularly accessed by the Executive Branch, the Congress, the Government Accountability Office, and the public, it is imperative that the DFO routinely update the Committee's Database File. At a minimum, the DFO shall review and update, as appropriate, their Committee's FACA Database File every 60 days. Each GFO may require the DFOs under their cognizance to advise them when these reviews and updates have been completed.

E3.15.2. Areas Requiring Special Attention. When updating the FACA Database, each GFO and DFO shall pay special attention to the following areas:

E3.15.2.1. Reports. Every unclassified report issued by a Committee during a fiscal year shall be listed and loaded onto the GSA's FACA Database. If the Committee's report is classified, the DFO shall list the report's unclassified title, if it exists, and annotate the remarks section of the Agency Recommendation Profile to indicate that the report is classified.

E3.15.2.2. Meetings. Every Committee meeting, including Administrative and Preparatory Work, Closed or Partially Closed meetings, shall be listed and all associated documents shall be loaded onto the GSA's FACA Database. The information listed on this profile shall be the same information (i.e., open, closed or partially closed; dates, location; and purpose) that the DFO normally submits on the Federal Register notice, if required.

E3.15.2.3. Meeting Documentation. Regardless of whether the Committee meeting is open or closed to the public, the DFO must ensure that all the proper documentation is posted to the GSA's FACA Database.

E3.15.2.3.1. Open Meeting Documentation. For each open Committee meeting, the DFO shall post all unclassified documents associated with the meeting. Specifically, the DFO shall post, in PDF format: the published Federal Register notice; the meeting's approved agenda; the approved minutes; and all unclassified documents presented to Committee members prior to and during the meeting by Committee staff, Agency representatives, or the public.

E3.15.2.3.2. Closed or Partially-Closed Meeting Documentation. For approved closed or partially-closed meetings, the DFO shall post in PDF format the meeting's unclassified approved agenda and a summary of the meeting. This summary, which will be used for the Annual Report of Closed or Partially-Closed Committee or Subcommittee meetings, shall contain the date and place of the meeting; what portion of the meeting (by time and agenda item) was closed to the public, and the provisions of Reference (i) cited to authorize the closure; the title or topic of all reports, records, or other information (written or oral) presented to the Committee or Subcommittee during the meeting, or provided to the Committee members in advance of the meeting; and a description of any actions taken at the closed session, including any reports or recommendations made to a DoD official and the disposition of any such reports or recommendations.

E3.15.2.4. Costs. All Federal government expenditures (direct and indirect) associated with the Committee shall be captured. When reporting Payments to Non-Federal members, the DFO shall capture all government funds, except for travel and per diem reimbursements, paid to the members for official Committee business. As for Payments for Federal members, the DFO shall capture the total salaries, to include benefits, received by Committee members who are Federal officers or employees (including Members of Congress) based upon the number of days of official Committee business. The Payments to Consultants is intended to capture costs paid to any consultant hired by the Committee. Reimbursement for Travel Payments, regardless of the category, is for all reimbursements provided by the Federal government for official Committee business. The Other Payments captures all other Committee expenditures, including printing, contracts, mailing costs (FedEx®, U.S. Postal Service, etc.), Committee meetings, etc, which are not captured elsewhere.

E3.15.2.5. Members. The DFO shall provide all the CMS information requested. The member's designation, unless otherwise directed by the CMO, will either be Regular Government Employee (Federal officer or employee, member of the Military Services, or Member of Congress) or SGE. The Appointment Type will be either Agency, Congressional, or Federal Employee Member. For the member's appointment term, the DFO, unless the Charter says otherwise, will enter 1-year term appointments. The Pay Plan and Pay Source, unless otherwise directed by the CMO, will be Travel and Per Diem Only and Executive Branch, respectively. When entering the member's e-mail address, the DFO may use the Committee's e-mail address so long as the CMS, who is the only person who will use the e-mail address, is able to contact the Committee member.

E3.15.2.6. Subcommittees. When the Committee establishes Subcommittees, the CMO shall be advised so that the Subcommittee's name can be entered into the FACA Database. Once entered, the DFO is then responsible for maintaining the required data. Within the Subcommittee Profile, the Cost Page is normally intended for chartered Subcommittees; however, if the DFO is able to separate out the Subcommittee costs from those of the parent Committee then the DFO may report the Subcommittee's cost information. When doing so the DFO must ensure that the Subcommittee's costs are reflected in the overall Committee's costs.

### E3.16. Program Management

E3.16.1. Department of Defense Federal Advisory Committee Management Program. To comply with the statutory and regulatory requirements of References (d) and (e), the CMO, on behalf of the DA&M, shall develop a management program that enables the CMO to manage and assess the performance of the DoD's overall program.

E3.16.2. GFOs. Each DoD Sponsor is encouraged to appoint, in writing, a GFO to assist the Sponsor in the administrative oversight and management of their aspects of the Department of Defense Federal Advisory Committee Management Program.

E3.16.2.1. The GFO duties shall be administrative in nature. He or she shall not exercise policy management authority over the Department of Defense Federal Advisory Committee Management Program, but will provide input, when requested or warranted. In addition, the GFO serves as the liaison between the CMO and all DFOs, alternate DFOs, and Committee points of contacts under the purview of the GFO's sponsor. In this capacity, the GFO provides policy guidance, implements DoD policy, answers inquires, ensures FACA compliance, reviews nomination packages, etc. To the extent possible, communications between the DFO and the CMO shall be through the appropriate GFO.

E3.16.2.2. When appointed, the GFO shall attend the GSA's Federal Advisory Committee Act Course, and retake the course every 36 months as long as the person remains a GFO. In addition, the GFO shall be given access to the GSA's FACA Database for those Committees that fall under the GFO's Sponsor. For example, the GFO for the Department of the Navy shall have GFO privileges in GSA's FACA Database for all Committees sponsored by the Secretary of the Navy, and the GFO shall assist the DFOs and CMO in maintaining the accuracy of the Database for these Committees.

E3.16.2.3. Acting on behalf of the DoD Sponsor, the GFO may hold their Sponsor's DFOs to additional administrative requirements as long as these additional requirements do not negate CMO or CMS requirements.

E3.16.3. Transparency. Program transparency reduces the likelihood of perceived inequities and enables the public to better understand how the Federal Advisory Committee Management Program is managed, and how Committees exercise internal controls over project management, contracting procedures and practices, and financial transactions.

E3.16.3.1. To promote greater transparency, the Department of Defense and the DoD-Supported Committees shall conduct its FACA-related business in the open to the extent possible and in accordance with existing regulations regarding National Security Information.

E3.16.3.2. The Department of Defense shall use various public-access Web sites to make information available to the public. This includes, but is not limited to information such as the status of Committee member appointment; how Committees arrive at their decisions; copies of Committee Charters; and access to unclassified work products (reports, studies, or recommendations).

E3.16.4. CMO Web site. The CMO shall maintain a Web site that provides information on DoD-Supported Committees. At a minimum, the Web site shall include the CMO's mailing address, fax number, and phone number; a list of the various DoD-Sponsored Committees, including the Committees that Congress exempted from Reference (e); a hyperlink to the Committee's Web site, if appropriate; a copy of the Committee's current Charter; a media point of contact for the CMO; and when possible copies of published unclassified Committee reports.

E3.16.5. Committee Web sites. In keeping with established security requirements, Committees are encouraged to develop and maintain Web sites. Web sites funded by DoD appropriated funds, shall comply with the standards and policies promulgated by the Chief Information Officer for the Department of Defense, including the appropriate security regulations and policies.

E3.16.5.1. As permitted by law, Committees shall practice openness and seek feedback from the public and other interested parties by encouraging the exchange of ideas and recommendations through their Web sites.

E3.16.5.2. A Web site that is maintained by a Committee shall provide, at a minimum the Committee's name and mailing address; information on the Committee's DoD Sponsor; the DFO's phone and mailing address; background on the authority that established the Committee; the Committee's Charter; details on the Committee's public inquiry process; any by-laws or rules of operations approved by Committee members; explanation of how the Committee arrives at its decisions; a history and timeline of Committee activities; a media point of contact for the Committee; and records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agendas, and any other documents that pertain to the Committee.

E3.16.6. Committee Management Review Program. The DA&M and the CMO shall develop a DoD Committee Management Review Program no later than 90 days after this Instruction becomes effective. When conducting his or her reviews, the CMO may consult with the GFO, DFO, DoD Washington Headquarters Services, or DoD GC subject-matter experts. Findings and recommendations resulting from the CMO's review shall be reported to the appropriate officials, and any DoD-wide changes shall be submitted to the DA&M or CMO within 60 days. At a minimum, the CMO shall review the following on an annual basis:

E3.16.6.1. All Committee records maintained in the CMO and the GFO offices.

E3.16.6.2. All Financial Disclosure Reports (DD Form 2859) and Appointment Affidavits on current Committee members.

E3.16.6.3. At least 25 percent of the records maintained by Committees and their DFOs, including financial management records. The CMO shall ensure that he or she takes a representative sampling of Committees from each DoD Sponsor.

### E3.17. Non-Discretionary Committees Exempted from the FACA Statute

E3.17.1. FACA Exemption. Only Congress may exempt a Federal Advisory Committee from the provisions of References (d) and (e). when this occurs, the CMO, in coordination with the DoD GC, shall determine which provisions of this Instruction a Non-Discretionary Committee shall comply with.

E3.17.1.1. Any DoD Sponsor for a Committee that is exempt from References (d) and (e) shall designate a full-time or permanent part-time Federal employee to act as a DoD Liaison Officer for that Committee. This individual will work with the CMO and the GFO, if appropriate, to ensure that the Committee complies with the appropriate DoD regulations and policies.

E3.17.1.2. In addition, the DoD Liaison Officer shall be responsible for safeguarding all DoD National Security Information that is provided to the Committee.

E3.17.2. DoD Regulatory Compliance. Generally, the Committee shall comply with the following provisions:

E3.17.2.1. DoD personnel policies and procedures, including those regarding the detail of DoD personnel when the Department of Defense provides funding for Committee members and staff, or the Committee utilizes the professional services of a DoD personnel office to staff its Committee.

E3.17.2.2. DoD policies and procedures pertaining to access, use, and storage of DoD National Security Information. When DoD National Security Information is required by a Committee exempted by the FACA statute and other Federal regulations, the Committee's DoD Sponsor shall establish procedures for the Committee to follow when handling DoD National Security Information, including security reviews of any materials disseminated by the Committee.

E3.17.2.3. DoD travel rules and regulations when the Department of Defense provides funding for the Committee's official travel.

E3.17.2.4. DoD contracting and financial management policies and procedures when the Committee uses DoD appropriated funds.

E3.17.2.5. DoD information technology policies and procedures when the Committee uses any DoD backbone or e-mail servers.

E3.17.2.6. DoD policies and procedures regarding the transfer and archiving of the Committee's official records when the Committee completes its work.

E3.17.3. Report Requirements. Although Committees exempt from the provisions of References (d) and (e) are also exempt from the report filing provisions of References (d) and (e) and this Instruction, the Department of Defense encourages the Committee to consider filing copies of its unclassified Committee reports in accordance with the additional distribution requirements of this Instruction.

#### Appendices - 3

- E3.A1. Elements of Justification for the Establishment of Discretionary Advisory Committees
- E3.A2. Elements Required for DoD-Supported Federal Advisory Committee Charters
- E3.A3. Required Appointment Paperwork for Committee members (With and Without Compensation)

E3.A1. APPENDIX 1

ELEMENTS OF JUSTIFICATION FOR THE ESTABLISHMENT  
OF DISCRETIONARY ADVISORY COMMITTEES

E3.A1.1. Name of Proposed Advisory Committee.

E3.A1.2. Number of Committee Members. Indicate the required number of members and whether or not additional compensation, other than travel and per diem, is necessary. With regard to compensation, Committee members normally do not receive compensation for their services. In addition, indicate how the Department of Defense will ensure that Committee membership is balanced.

E3.A1.3. Estimated Size and Source of Staff. Indicate the size of the proposed Advisory Committee's support staff and the source of staff members (e.g., detailed DoD employees, new hires).

E3.A1.4. Estimated Number and Frequency of Meetings. Indicate the estimated number of meetings anticipated within a fiscal year and, if known, how frequently the meetings will be held (e.g., "approximately every 4 months").

E3.A1.5. Estimated Annual Costs, Funding Sources, and Number of Man-Years Required to Support Proposed Advisory Committee. Costs shall include DoD's direct and indirect costs. Funding sources shall indicate if funding is available from the Component's appropriated funds or if appropriation will come from other DoD funds.

E3.A1.6. Rationale for Committee Formation. Explain why it is essential that the Department of Defense form this Committee to serve in the interests of the Department of Defense and the public. (Keep in mind that the Office of Management and Budget through the CMS controls the number of Discretionary Committees that the Department of Defense can approve.)

E3.A1.7. Explain Why the Proposed Advisory Committee Cannot be Aligned Under an Existing DoD-Supported Federal Advisory Committee. [Self Explanatory]

E3.A1.8. Explain How the Proposed Advisory Committee will Accomplish its Purpose and Why the Advice is not Available from Other Sources. [Self Explanatory]

E3.A2. APPENDIX 2

ELEMENTS REQUIRED FOR DOD-SUPPORTED  
FEDERAL ADVISORY COMMITTEE CHARTERS

E3.A2.1. Official Designation. Provide the official name of the Advisory Committee.

E3.A2.2. Objectives and Scope of Activities. Describe the objectives and scope of the Committee's mission or charge, and indicate what authority established the committee. For Discretionary Committees, it is not necessary to provide a detailed description of the specific duties or tasks; however, for Non-Discretionary Committees, the specific duties or tasks that are listed in the statute shall be provided.

E3.A2.3. Membership. Indicate the total number of members, provide details on the selection process for Committee members and the Committee Chairperson, provide a description of the required expertise and/or represented groups necessary to achieve balanced membership, and list the Committee members' appointment categories (e.g., SGE) and whether or not they are compensated for their duties.

E3.A2.4. Meetings. Indicate that the DFO calls the Committee meetings and what the estimated number of meetings per year. In addition, this section will indicate: (a) how the DFO is appointed; (b) that the DFO or Alternate DFO must attend all Committee and Subcommittee meetings; (c) whether the Committee is authorized to establish Subcommittees; and (d) that Subcommittees, if authorized, must comply with FACA statutes.

E3.A2.5. Duration of the Committee. Indicate that the Committee is subject to renewal every 2 years.

E3.A2.6. Agency Support. Indicate that the Department of Defense through the DoD Sponsor will support the Committee, as required, and ensure compliance with the FACA statute and regulations.

E3.A2.7. Termination Date. Indicate that the Committee will terminate upon completion of its mission or 2 years from the date its charter is filed, unless approved for extension.

E3.A2.8. Operating Costs. Indicate the estimated annual operating and DoD personnel costs to support the Committee. The cost expenditure categories that are used in the ACR shall be used to estimate these costs.

E3.A2.9. Charter Filing Date. Date shall be entered by the CMO and it will be the date the Charter is officially filed.

E3.A3. APPENDIX 3

REQUIRED APPOINTMENT PAPERWORK FOR  
COMMITTEE MEMBERS (WITH AND WITHOUT COMPENSATION)<sup>1</sup>

E3.A3.1. INS Form 9, “Employment Eligibility Verification” (Copies of supporting documentation used for verification shall be provided.)<sup>1</sup>

E3.A3.2. Optional Form 306, “Declaration for Federal Employment.”

E3.A3.3. Current Resume or Optional Form 612, “Optional Application for Federal Employment.” If a resume is used, then it shall indicate the Committee member’s social security number, date of birth, and current address.

E3.A3.4. Standard Form 61, “Appointment Affidavits.”

E3.A3.5. Standard Form 144, “Statement of Prior Federal Service” (Former military personnel shall provide a copy of DD Form 214 and retired Federal employees shall provide a copy of the most recent annuity statement.)

E3.A3.6. OGE Form 450, “Confidential Financial Disclosure Report” or Standard Form 278, “Executive Branch Personnel Public Financial Disclosure Report.” The appropriate GC shall determine which form is required.

E3.A3.7. DoD GC’s “An Ethics Guide for Consultants and Advisory Committee members at the Department of Defense,” which provides Committee members with ethics information.

E3.A3.8. DD Form 2292, “Consultant or Expert, Request for Appointment, or Renewal of Appointment.”

REQUIRED APPOINTMENT PAPERWORK  
COMMITTEE MEMBERS (WITH COMPENSATION)

E3.A3.10. Required appointment paperwork includes the requirements of Paragraphs E3.A3.1 through E3.A3.9, in addition to the following:

E3.A3.10.1. Standard Form 1199A, “Direct Deposit Form.”

E3.A3.10.2. Employee Withholding Certificate – Internal Revenue Service Form W-4 and appropriate State Certificates.

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<sup>1</sup> Obtain copies via the Internet at: <http://www.uscis.gov/graphics/formsfee/forms/i-9.htm>