

BYLAWS TEMPLATE for DHS ADVISORY COMMITTEES

[Committee Name]
Bylaws

ARTICLE I AUTHORITY

(For a discretionary committee) The Secretary of Homeland Security has established the [committee name] under the authority of 6 U.S.C., section 451. The committee shall operate in accordance with the provisions of the *Federal Advisory Committee Act* (FACA) (Title 5, United States Code, Appendix).

(For a statutory or Presidential committee) As provided for in (cite authority, either codification of statute or Executive Order), the Secretary of Homeland Security has established the [committee name]. The committee shall operate in accordance with the provisions of the *Federal Advisory Committee Act* (FACA) (Title 5, United States Code, Appendix).

ARTICLE II PURPOSE

The [committee name or acronym] provides advice and recommendations to *(insert the specific program office or agency official)* on *(insert the committee's objectives and scope of activities from the charter.)*

ARTICLE III MEMBERSHIP AND MEMBER RESPONSIBILITIES

(Provide information on the appointing authority, member responsibilities, removal, etc.)

Section 1. Composition. *(Provide membership composition as required by statute or charter.)*

Section 2. Appointment. Members of the [committee name or acronym] are appointed by and serve at the pleasure of the Secretary upon the recommendation of the [component head by title]. Appointments are personal to the member and cannot be transferred to another individual. Members may not designate someone to attend in their stead, participate in discussions, or vote.

Section 3. Terms of Office. *(State the terms of office and how vacancies are handled. For statutory committees, if the authorizing legislation permits alternate members, provide the requirements for the alternate to attend and speak for the member.)* Include the statement: In the event the committee terminates, all appointments to the committee shall terminate.

Section 4. Certification of Non-Lobbyist Status. All members of [committee name] must annually self-certify that they are not registered lobbyists under the Lobbying Disclosure Act, 2 United States Code, section 1603, and must advise the Department of Homeland Security (DHS) if they register as a lobbyist while serving on the (committee name). Members who register as a lobbyist after their

appointment or re-appointment will be replaced on the committee. Members appointed to the (committee) prior to June 18, 2010, who are registered lobbyists are permitted to serve the remainder of their term of office. Candidates for appointment must self-certify that they are not registered lobbyists under the Lobbying Disclosure Act. The Designated Federal Officer (DFO) will assure that candidates for appointment are not lobbyists registered under the Lobbying Disclosure Act.

Section 5. Security Clearances. *(If applicable, include a statement that members must have a federal government security clearance and the level of clearance required.)*

Section 5. Members' Responsibilities. Because the membership of the [committee name] is constructed to balance as many aspects and viewpoints of the industry as possible, member attendance and participation at meetings is vital. Members are expected to personally attend and participate at committee meetings. The [component head by title] shall recommend to the Secretary that any member who is unable to fulfill their responsibility be replaced on the committee.

Members of the [committee name] may be recommended for removal for reasons such as, but not limited to:

- a. Failure to obtain an appropriate security clearance (if applicable);
- b. Missing two consecutive meetings, or not participating in the committee's work;
- c. Registering as a lobbyist after appointment;
- d. Engaging in activities that are illegal or violate the restrictions on members' activities as outlined below.

Section 6. Restriction on Members' Activities.

- a. Members may not use their access to the Federal Government as a member of this committee for the purpose of soliciting business or otherwise seeking economic advantage for themselves or their companies. Members may not use any non-public information obtained in the course of their duties as a member for personal gain or for that of their company or employer. Members must hold any non-public information in confidence.
- b. The committee as a whole may advise the agency on legislation or recommend legislative action. In their capacities as members of (committee name), individual members may not petition or lobby Congress for or against particular legislation or encourage others to do so.
- c. Members of (committee name) are advisors to the agency and have no authority to speak for the committee, the (component name) or for the Department outside the committee structure.
- d. Members may not testify before Congress in their capacity as a member of (committee name). If requested to testify before Congress, members of the [committee name]:
 1. Cannot represent or speak for the committee, DHS, any agency, or the Administration in their testimony;

2. Cannot provide information or comment on committee recommendations that are not yet publicly available;
 3. May state they are a member of the committee; and,
 4. May speak to their personal observations as to their service on the committee.
- e. If speaking outside the committee structure at other forums or meetings, the restrictions in section d. also apply.

ARTICLE IV Officials

Section 1. Chairperson and Vice Chairperson. *(Provide the method for selecting the chairperson and vice chairperson, consistent with the committee’s charter or authorizing legislation.). (Provide the responsibilities of the chairperson and vice chairperson, e.g., term, work with the DFO to develop agenda, establish priorities, etc., and certify the accuracy of minutes.)*

Section 2. Designated Federal Officer: The Designated Federal Officer (DFO) serves as the Department’s agent for all matters related to the [committee name] and is appointed by [whom]. In accordance with the provisions of the FACA, the DFO must:

- a. Approve or call meetings of the committee and its subcommittees;
- b. Approve agendas for committee and subcommittee meetings;
- c. Attend all meetings;
- d. Adjourn meetings when such adjournment is in the public interest; and,
- e. Chair meetings of the committee when directed to do so by [official to whom the committee reports].

In addition, the DFO is responsible for assuring administrative support functions are performed, including the following:

- a. Notifying members of the time and place of each meeting;
- b. Tracking all recommendations of the committee;
- c. Maintaining the record of members’ attendance;
- d. Preparing the minutes of all meetings of the Board’s deliberations, including subcommittee and working group activities;
- e. Attending to official correspondence;
- f. Maintaining official records and filing all papers and submissions prepared for or by the committee, including those items generated by subcommittees and working groups;
- g. Reviewing and updating information on committee activities in the Shared Management System (aka, FACA database) on a monthly basis;
- h. Acting as the Board’s agent to collect, validate and pay all vouchers for pre-approved expenditures; and
- i. Preparing and handling all reports, including the annual report as required by FACA.

ARTICLE V MEETING PROCEDURES

- Section 1. Meeting Schedule and Call of Meetings. *(Provide information regarding the number of times the committee is expected to meet and when, and that the Designated Federal Officer must attend all committee, subcommittee, work group, etc. meetings. The DFO calls or approves the call of committee, subcommittee, and task force meetings.)*
- Section 2. Agenda. *(Provide information on how the agenda is developed (e.g., by the DFO in consultation with the Chair) and include a statement that the DFO approves the agenda for all committee and subcommittee meetings, distributes agenda to members prior to the meeting, and publishes the agenda in the Federal Register notice of meeting.)*
- Section 3. Quorum. *(Unless otherwise provided in statute or by Presidential directive, a quorum for DHS advisory committees is the presence of fifty percent plus one of the appointed committee (or subcommittee, working group or task force) members. A quorum of the committee is required to vote on issues being addressed.*
- Section 4. Voting Procedures. *(Describe the procedures for committee voting. Also describe the format for submitting recommendations to the agency, e.g., submitted by a formal letter from the Chair to the Federal official, by formal report to the Federal official, or through a resolution recorded in the minutes of the meeting).*
- Section 5. Minutes. *(Include information on who prepares minutes, their content, distribution, certification by the Chair, etc.)* The DFO will prepare the minutes of each meeting and distribute copies to each committee member. Minutes of open meetings are available to the public upon request. Minutes of closed meetings will also be available to the public upon request subject to the withholding of matters about which public disclosure would be harmful to the interests of the Government, industry, or others, and which are exempt from disclosure under the Freedom of Information Act.

The minutes will include a record of:

- a. The time, date, and place of the meeting;
- b. A list of all attendees including members, staff and the public;
- c. An accurate description of each matter discussed and the resolution, if any, made by the committee;
- d. Copies of reports or other documents received, issued, or approved by the committee; and
- e. An accurate description of public participation, including oral and written statements provided.

The DFO assures that the Chair certifies the minutes within 90 calendar days of the meeting to which they relate.

Section 6. Open Meetings. *(Include procedures for public comments and filing written statements at meetings.)* Unless otherwise determined in advance, all meetings of the [committee name] shall be open and announced to the public in a notice published in the Federal Register at least fifteen calendar days before the meeting. Members of the public may attend any meeting or portion of a meeting that is not closed to the public and may offer oral comment at such meeting. Meetings will include a period for oral comments unless it is clearly inappropriate to do so. Members of the public may submit written statements to the [committee name] at any time. All materials provided to the committee shall be available to the public when they are provided to the members. Such materials, including any submissions by members of the public, are part of the meeting record.

Section 7 Closed Meetings. All or parts of meetings of [committee name] may be closed in limited circumstances and in accordance with applicable law. No meeting may be partially or fully closed unless the component head issues a written determination that there is justification for closure under the provisions of subsection (c) of 5 United States Code, 552b, the *Government in the Sunshine Act* (Sunshine Act). Where the DFO has determined in advance that discussions during a committee meeting will involve matters about which public disclosure would be harmful to the interests of the government, industry, or others, an advance notice of a closed meeting, citing the applicable exemptions of the *Government in the Sunshine Act*, will be published in the Federal Register. The notice may announce the closing of all or just part of a meeting. If, during the course of an open meeting, matters inappropriate for public disclosure arise during discussions, the DFO or Chairman will order such discussion to cease and will schedule it for a future meeting of the committee that will be approved for closure. No meeting or portion of a meeting may be closed without prior approval and notice published in the Federal Register at least 15 calendar days in advance. Closed meetings can only be attended by DFO, committee members, and necessary agency staff members. Presenters must leave immediately after giving their presentations and answering any questions.

ARTICLE VI EXPENSES AND REIMBURSEMENTS

(Include information regarding the name of the program office that is responsible for support of the committee, a statement that expenditures for committee activities must be approved in advance by the DFO; and whether members will be reimbursed for travel and per diem expenses.)

ARTICLE VII ADMINISTRATION

(Provide information on administrative support for the committee, such as—the (name of the program office) shall provide clerical and administrative support for the committee—and any other relevant information.)

ARTICLE VIII SUBCOMMITTEES

(Include a statement that subcommittees may only be established by the DFO and that subcommittees must present their work to the parent committee for full deliberation and discussion. Include information on any standing committees. Provide information on how subcommittee members are selected, plans for balancing the membership on the subcommittee relevant to the tasking and issues assigned to the subcommittee, and their terms of service.)

ARTICLE IX RECORDKEEPING

(Include a statement that the DFO maintains all records of the advisory committee in accordance with appropriate recordkeeping statutes (GRS 26, Item 2 or Presidential Records Act of 1978) and that information provided to advisory committees must be made available to the public. Also add information on disposition of applications for appointments.)

ARTICLE X RECOMMENDATIONS AND REPORTING

(Include process on how reports or recommendations will be reviewed, discussed and approved or disapproved by committee members. Explain how the approved reports or recommendations will be presented to the agency; how reports or recommendations will be tracked and how committee will receive feedback on implementation (or not) of recommendations).

ARTICLE XI BYLAWS APPROVAL AND AMENDMENTS

The DFO may amend these bylaws at any time, and the amendments shall become effective immediately upon approval.

(Name)
Designated Federal Officer

Date approved: _____