NATIONAL SECURITY TELECOMMUNICATIONS ADVISORY COMMITTEE BYLAWS

DATE: 17 March 2011

Article I Authority

Section 1. The President's National Security and Telecommunications Advisory Committee (NSTAC) is established under the authority of Executive Order 12382 (E.O. 12382), *President's National Security Telecommunications Advisory Committee*, dated September 13, 1982, as amended. The NSTAC shall be organized and operate in accordance with the *Federal Advisory Committee Act* (FACA), as amended [Title 5, United States Code (5 U.S.C.), Appendix 2], E.O. 12382, as amended, other Presidential directives, the charter of the NSTAC, and these bylaws.

Section 2. The provisions of the FACA, as amended (5 U.S.C., Appendix 2), E.O. 12382, 13 September 1982, and the charter of the NSTAC shall govern in the event of any conflict between the provisions thereof and these bylaws.

Article II Purpose

The NSTAC provides information and advice on national security and emergency preparedness (NS/EP) telecommunications. The committee will address matters pertaining, but not limited to, NS/EP telecommunications, emerging technologies, broadband, public safety, and cyber topics, as outlined in the charter.

Article III Membership and Member Responsibilities

Section 1. Composition. The NSTAC will be composed of no more than 30 members. These members will have particular knowledge and expertise in the field of telecommunications and represent elements of the Nation's telecommunications industry, including information technology, electronics, cable, and broadcast industries.

Section 2. Appointment. Members of the committee are appointed by and serve at the pleasure of the President. Appointments are based on the person and representation in industry and cannot be transferred to another individual. Additionally, membership is not contingent upon the organization that the member works for but based on an individual's particular knowledge and expertise as they are related to the NSTAC's mission. Members may not designate someone to attend in their stead, participate in discussions, or vote on their behalf. If a member's association changes, the member must inform the

Office of the Manager, National Communications System (OMNCS) and may be requested to submit his/her resignation.

Section 3. Terms of Office. Members will serve up to a three-year term and are eligible for formal re-appointment for additional terms. Approximately one third of the committee's membership shall expire each year. In order to promote continuity within the committee, membership renewals will be staggered. The OMNCS will be responsible for reviewing membership renewals and submitting recommendations for membership on an annual basis to the Executive Office of the President (EOP), specifically the National Security Staff (NSS). A member appointed to fulfill a vacancy will serve the remainder of that term. In the event that the NSTAC terminates, all appointments to the NSTAC shall terminate.

Section 4. Certification of Non-Lobbyist Status. All members of the NSTAC must annually self-certify that they are not registered lobbyists under the Lobbying Disclosure Act, Title 2, U.S.C., section 1603, and must advise the Department of Homeland Security (DHS) if they register as a lobbyist while serving on the NSTAC. Members who register as a lobbyist after their appointment or re-appointment will be replaced on the committee. Members appointed to the NSTAC prior to June 18, 2010, who are registered lobbyists are permitted to serve the remainder of their term of office. The Designated Federal Officer (DFO) will assure that candidates for appointment are not lobbyists under the Lobbying Disclosure Act.

Section 5. Security Clearances. All members of the committee are required to have a Government security clearance, specifically at the Top Secret/Sensitive Compartmented Information (TS/SCI) level, to ensure that they can fully participate in any classified activities or briefings. If a member does not possess a security clearance at the time he/she is appointed, DHS will sponsor the member for a TS/SCI clearance. Members currently serving on the committee who do not hold a security clearance prior to October 1, 2010, may serve the remainder of their term but will not be eligible for re-appointment when their term expires.

Section 6. Members' Responsibilities. Since the membership of the NSTAC 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 in committee meetings. The DFO will recommend to the EOP that any member who is unable to fulfill his/her responsibility be replaced on the committee.

Members of the NSTAC may be recommended for removal by the DFO, for reasons such as, but not limited to:

a. Missing two consecutive meetings, or not participating in the committee's work;

b. Registering as a lobbyist after appointment;
c. Failing to obtain a TS/SCI clearance; and
d. Engaging in activities that are illegal or violate the restrictions on members' activities as outlined below.

Section 7. 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 for or otherwise seeking economic advantage for themselves, their companies, or their employers. 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 President, through DHS, on legislation or may recommend legislative action. In their capacities as members of the NSTAC, individual members may not petition or lobby Congress for or against particular legislation or encourage others to do so.
c. Members of the NSTAC are advisors to the President and have no authority to speak for the President, the NSTAC, or DHS outside the committee structure.
d. Members may not testify before Congress in their capacity as a member of the NSTAC. If requested to testify before Congress in any capacity other than as a member, members of the NSTAC:
    1. Cannot represent or speak for the committee, any agency, or the President 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. When 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. The NSTAC Chair and NSTAC Vice Chair shall be appointed annually by the President unless otherwise stated by the President. The NSTAC Chair will preside at all NSTAC meetings. The vice chair will act as chair in the absence of the chair. The chair and vice chair are expected to facilitate committee meetings and moderate all committee deliberations. The chair and vice chair will receive taskings from the EOP and/or the DFO, and in coordination with the DFO, will create subcommittees to examine taskings.

Section 2. Designated Federal Officer. The DFO serves as DHS' agent for all matters related to the NSTAC and is appointed by the Manager of the National Communications System (NCS). 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 the EOP.

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. Coordinating with DHS and other Government stakeholders to propose to the EOP a work plan for the NSTAC;
c. Tracking all recommendations of the committee;
d. Maintaining the record of members' attendance;
e. Preparing the minutes of all meetings of the committee's deliberations, including subcommittee activities;
f. Attending to official correspondence;
g. Maintaining official records and filing all papers and submissions prepared for or by the committee, including those items generated by subcommittees;
h. Developing or updating operating procedures for all committee and subcommittee activities;
i. Reviewing and updating information on committee activities in the Shared Management System (i.e., FACA database) on a monthly basis; and
j. Preparing and handling all reports, including the annual report as required by the FACA.

Article V Meeting Procedures

Section 1. Meeting Schedule and Call of Meetings. The NSTAC will meet at a minimum once per year. Additional meetings may be scheduled, pending approval from the DFO or alternate DFO. The DFO or alternate DFO must attend all committee and subcommittee meetings. The DFO calls or approves the call of committee and subcommittee meetings.

Section 2. Agenda. The agenda for meetings is developed by the DFO in coordination with the NSTAC chair. The DFO approves the agenda for all committee and subcommittee meetings, distributes the agenda to members prior to the meeting, and publishes the agenda in the Federal Register.

Section 3. Quorum. A quorum of the NSTAC is the presence of fifty percent plus one of the committee members currently appointed. A quorum of the committee is required to vote on issues being addressed. Members may submit minority reports for consideration. Minority reports may be prepared by any member or members and submitted to the OMNCS. The OMNCS will attach the minority report to the majority report to be transmitted through the Secretary of Homeland Security to the President. In the case of a vote on a classified matter, a quorum is constituted by the presence of more than half of those members of the committee who meet the prerequisite security clearance requirements for that particular matter.

Section 4. Voting Procedures. Only members of the NSTAC may vote. All issues will be decided, and recommendations or decisions made, by a majority vote of those members present at any NSTAC meeting.

Section 5. Minutes. 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* (FOIA) (5 U.S.C., section 552).

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 NSTAC Chair certifies the minutes within 90 calendar days of the meeting to which they relate.

Section 6. Open Meetings. All meetings of the NSTAC shall be 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, at the determination of the DFO, offer oral comment at such meeting. Oral comments should be allowed unless it is clearly inappropriate to do so. Members of the public may submit written comments to the NSTAC. 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 NSTAC meetings may be closed in limited circumstances and in accordance with applicable law. A determination must be made by an authorized DHS official in accordance with DHS policy and directives that the meeting should be closed in accordance with Title 5, U.S.C., subsection (c) of section 552b. Where the DFO has determined in advance that discussion 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 NSTAC Chair 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 may only be attended by the DFO, committee members, EOP and DHS staff members, and appropriate Federal Government officials invited to provide subject matter expertise related to agenda items. Presenters must leave immediately after giving their presentations and answering any questions.

Article VI Expenses and Reimbursements

DHS is responsible for providing financial and administrative support to the NSTAC. Members of the NSTAC will serve on the committee without compensation. However, to the extent permitted by law, members shall be entitled to travel expenses, including per diem in lieu of subsistence. Travel expenditures can only be approved by the DFO in advance. The OMNCS will be responsible for processing travel reimbursements for the NSTAC.

Article VII Administration

The OMNCS will provide administrative and clerical support to the committee and assist in carrying out the administrative functions of the DFO as outlined in Article IV, Section 2.

Article VIII Subcommittees

Subcommittees may only be established by the DFO. Members of subcommittees will not be registered lobbyists, as outlined in Article III, Section 4. Subcommittee members may be composed in part or in whole of individuals who are not NSTAC members and are invited to serve by the DFO. Subcommittees will be stood up as needed and terminate when the work is completed. The DFO may consult with the NSTAC members to determine the appropriate participants for each tasking. The DFO will invite the selected individuals to serve on the

subcommittee and advise the members that their terms of service will expire when the tasking is completed. If appropriate, for a specified tasking, subcommittee members may be required to hold a security clearance to serve on a subcommittee. Subcommittee members will reflect balanced viewpoints for the subject matter. Once the tasking has been examined by a subcommittee, the members must present their work to the NSTAC for full deliberation and discussion.

Article IX Recordkeeping

The DFO maintains all records of the NSTAC in accordance with the *Presidential Records Act of 1978* (Title 44, U.S.C., section 2201-2207) or other approved agency records disposition schedules. These records shall be available for public inspection and copying, in accordance with FOIA.

Article X Recommendations and Reporting

The subcommittee assigned to a specific tasking will present the NSTAC with a draft report for the members to deliberate, discuss, and vote upon. Once the members agree on the final product, the product, in the form of a written report, will be transmitted to the President through the Secretary of Homeland Security within seven days of the members approving it. After the transmittal of the report, the OMNCS will provide an assessment of the NSTAC's report for the Secretary for consideration and to transmit to the President. The EOP will work with the appropriate interagency committee and the OMNCS to evaluate the report proposals and devise a strategy for implementing the validated recommendations.

Article XI Amendment of the Bylaws

Section 1: The DFO may amend the bylaws at any time and the amendments shall become effective immediately.

James Madon
NSTAC Designated Federal Official
March 17, 2011