



U.S. DEPARTMENT OF
ENERGY

Environmental Management Site-Specific Advisory Board

Policies Desk Reference

April 2023

Table of Contents

Foreword	4
I. Background and Introduction.....	5
II. Roles and Responsibilities	6
A. DOE Headquarters.....	6
1. Office of the Secretary of Energy	6
2. Office of the Executive Secretariat.....	6
3. Office of the Assistant General Counsel for General Law	7
4. Office of the Assistant Secretary for Environmental Management.....	7
5. Office of Intergovernmental and Stakeholder Programs	7
B. DOE Field Offices	8
C. Designated Federal Officer/Deputy Designated Federal Officer/Federal Coordinator	10
D. EM SSAB Members	11
III. Operating a Local Site-Specific Advisory Board.....	12
A. Public Participation and Record Keeping	12
1. Public Participation	12
2. Public Notification.....	13
3. Minutes and Records	14
4. Subcommittee and Administrative Meetings	14
5. Annual Comprehensive Review to Headquarters	15
B. Board Recommendations and DOE Responses.....	16
C. Memberships.....	17
1. Membership Composition	17
2. Member Appointment and Reappointment	18
3. Delegated Authority to the Field for Member Appointment	19
4. Delegated Authority to the DFO for Interim Appointment.....	19
5. Removal and Resignation of Members	20

	D. Community Education and Member Recruitment	20
IV.	Conflict of Interest.....	20
V.	Funding and Other Support	22
VI.	Compensation and Travel Expenses.....	23
	A. Board Service Not Compensable	23
	B. Travel Reimbursement	23
VII.	Food and Refreshments	24
VIII.	Board Termination	25
IX.	Acronyms & Definitions.....	26
X.	Applicable Laws, Regulations, Orders and Policies.....	27

ENVIRONMENTAL MANAGEMENT SITE-SPECIFIC ADVISORY BOARD

Policies Desk Reference

The purpose of this document is to provide guidance regarding the operation of the Environmental Management Site-Specific Advisory Board (EM SSAB or Board). This updated guidance supersedes the guidance document dated July 2013. This document is intended to summarize pertinent sections of the requirements of the Federal Advisory Committee Act (**FACA**) of 1972, **5 United States Code (U.S.C.) Appendix 2**; the General Services Administration (GSA) implementing regulations, **41 Code of Federal Regulations (41 CFR) Subpart 102-3**; the Department of Energy (DOE or Department) Manual entitled *Advisory Committee Management Program*, **DOE M 515.1-1**; the **EM SSAB Charter**; and the **EM SSAB Membership Balance Plan**. It is not intended to replace these documents. In addition, it provides specific direction for the EM SSAB.

REVISION HISTORY

This document was reviewed by CMO/Butler, GC/Comfort and approved by DFO/Snyder on August 18, 2022.

Revised September 29, 2022. Revision reviewed by CMO/Kennerly, GC/Comfort and approved by DFO/Snyder.

Revised April 17, 2023. Revision reviewed by CMO/Butler, GC/Comfort and approved by DFO/Snyder.

Background and Introduction

The EM SSAB, established in May 1994, involves stakeholders directly in DOE EM cleanup decisions. While only one FACA-chartered EM SSAB exists, eight local boards under its umbrella charter have been organized at the following sites: Hanford in Washington State, Idaho, Northern New Mexico, Nevada, Oak Ridge in Tennessee, Paducah in Kentucky, Portsmouth in Ohio, and Savannah River in South Carolina. The EM SSAB charter has been renewed every two years since 1996.

In accordance with its charter, the EM SSAB provides the Assistant Secretary for Environmental Management (EM), or the appropriate DOE EM official, with advice and recommendations concerning issues affecting the EM program. At the request of the Assistant Secretary or the Field Managers, the Board may provide advice and recommendations concerning the following EM site-specific issues: clean-up activities and environmental restoration; waste and nuclear materials management and disposition; excess facilities; future land use and long-term stewardship. The Board may also be asked to provide advice and recommendations on any EM program components, such as risk assessments, communications, and funding priorities.

The local boards organized under the EM SSAB Charter draw upon diverse community viewpoints and demographics to provide advice and recommendations to DOE. Some local boards are associated with DOE field offices for which EM is the landlord program, while other local boards are supported by field offices that are managed either by the Office of Science (SC), the National Nuclear Security Administration (NNSA), or the Office of Nuclear Energy (NE). However, in accordance with the EM SSAB Charter, the mission and operation of any given local board is unaltered whether the landlord is EM, SC, NNSA, or NE.

The goal of the EM SSAB is to involve a diverse group of community members in EM planning and decision-making processes for the cleanup of historic nuclear testing activities. The EM SSAB is only one component of EM's public participation program and is not intended to be an exclusive means of public participation. It is the policy of DOE and EM to conduct its programs in an open and responsive manner, thereby, encouraging and providing the opportunity for public participation in its planning and decision-making processes.

Throughout the EM SSAB's history, several local boards have been created and dissolved. Reasons for the boards' dissolution vary: the completion of the EM mission at the local board's respective site, the local board's fulfillment of its mission, or the diminished effectiveness of the local board. These include:

- Fernald Citizens Advisory Board (Ohio)
- Monticello Site-Specific Advisory Board (Utah)
- Pantex Citizens Advisory Board (Texas).
- Rocky Flats Citizens Advisory Board (Colorado)
- Sandia Site-Specific Advisory Board (New Mexico)

Roles and Responsibilities

A. DOE Headquarters

Office of the Secretary of Energy

The Secretary of Energy, per the requirements of FACA and the CFR, will:

- Comply with FACA and the CFR. **FACA § 8; 41 CFR § 102-3.105(a)**
- Issue administrative guidelines and management controls. **FACA § 8(a); 41 CFR § 102-3.105(b)**
- Designate a Committee Management Officer (CMO). **FACA § 8(b); 41 CFR § 102-3.105(c)**
- Ensure that meetings of the full advisory board are open to the public unless a written determination for closing any meeting is provided. **41 CFR § 102-3.105(d)**
- Review, at least annually, the need to continue the advisory committee. **41 CFR § 102-3.105(e)**
- Develop procedures to assure that advice and recommendations of the advisory committee is the result of independent judgment. **41 CFR § 102-3.105(g)**
- Assure that the interests and affiliations of advisory board members conform to applicable conflict of interest statutes and regulations. **41 CFR § 102-3.105(h)**
- Designate a Designated Federal Officer (DFO) for the advisory committee. **41 CFR § 102-3.105(i)**
- Provide opportunity for reasonable public participation in advisory committee activities. **41 CFR § 102-3.105(j)**

Office of the Executive Secretariat

The Executive Secretariat, per the requirements of FACA and the CFR, will:

- Ensure compliance with FACA. **FACA § 8(b)(1); 41 CFR § 102-3.115**
- Ensure that the interests and affiliations of advisory committee members are reviewed for conformance with applicable conflict of interest statutes.
- Renew or terminate the EM SSAB Charter as appropriate. Annually, review the need to continue the EM SSAB. **41 CFR § 102-3.115**
- Process *Federal Register* notices for EM SSAB meetings. **FACA § 8(b)(1), 10(a)(2); 41 CFR § 102-3.115, 102-3.150(a).**

DOE Manual 515.1-1 requires that the Executive Secretariat:

- Act as the Department's Committee Management Officer. **Manual § I.6.c**

- Review and concur on all advisory committee packages and appraise the need for or the continuation of advisory committees. **Manual § 1.6.c**
- In coordination with heads of departmental elements and the Office of General Counsel, ensure that advisory committees are fairly balanced in membership in terms of points of view represented and functions to be performed. **Manual § 1.6.c**
- Review and concur on all requests for closing part or all of an advisory committee meeting. **Manual § 1.6.c**
- Maintain hard copies of the following advisory committee records. **Manual § VII.2.a:**
 - Committee establishment and renewal proposals
 - *Federal Register* notices
 - Detailed minutes and transcripts (if available) of all meetings
 - Committee reports.

Office of the Assistant General Counsel for General Law

The Manual requires that the Office of the Assistant General Counsel for General Law:

- Provide legal support for EM SSAB Charter renewal, charter termination, official appointments of Board members, and policy issues. **Manual § 1.6.g**

To enhance compliance with FACA, the CFR, and DOE policy, the Office of the Assistant General Counsel for General Law will:

- Review operating procedures/bylaws submitted by the local boards to be approved by the DFO.

Office of the Assistant Secretary for Environmental Management (EM-1)

EM-1, per the requirements of FACA and the CFR, will:

- Ensure compliance with FACA and the CFR
- Issue administrative guidelines and management controls
- Appoint and remove Board members per delegated authority from the Secretary (in limited cases, this authority has been delegated to the DFO/field under section III.C of this guidance).

Office of Intergovernmental and Stakeholder Programs

The Office of Intergovernmental and Stakeholder Programs, per the requirements of FACA and the CFR, will:

- Manage and maintain a library of EM SSAB documentation, including annual reports, work plans, recommendations and responses, meeting minutes, and membership information. **FACA § 10(b), 12(a)**
- Provide the organizational location for the EM SSAB Designated Federal Officer (DFO), a position that is required for management of each Federal advisory board. (See responsibilities in Section C below.) **FACA § 10 (e); 41 CFR § 102-3.120**

DOE Manual 515.1-1 requires that the agency perform certain functions in administering its chartered advisory boards. The following functions are some of the assigned tasks to the Designated Federal Officer and the office in which she/he is located:

- Prepare *Federal Register* notices for local EM SSAB public meetings. **Manual § I.6.i**
- Ensure that conflict of interest regulations are followed. **Manual § I.6.i**
- Prepare, process, and obtain approval of EM SSAB appointment/reappointment membership packages. **Manual § I.6.i**
- Prepare, process, and obtain approval of EM SSAB Charter renewal. **Manual § I.6.i**
- Maintain EM SSAB records and documentation. **Manual § I.6.i**

To enhance compliance with FACA, the CFR, and DOE policy, the Designated Federal Officer will:

- Designate Deputy Designated Federal Officers (DDFOs) to be responsible for conducting day-to-day operations of the local site chapters of the EM SSAB (also known as “local boards”). A site may have two Co-DDFOs appointed at one time.
- Inform the EM SSAB members of Departmental processes, programs, projects, and activities directly affecting the Board’s mission and purpose.
- Coordinate the review of local board operating procedures/bylaws with the Office of General Counsel to ensure that they follow FACA and other regulations and requirements. The DFO is responsible for giving final approval of local procedures/bylaws and the EM SSAB Policies Desk Reference.
- Coordinate the review and finalize the EM SSAB Annual Comprehensive Report to Congress.
- As required, coordinate HQ review of presentations to be given to the local boards by DOE employees, its contractors, or other representatives.

B. DOE Field Offices

Although DOE headquarters (HQ), through the Assistant Secretary for EM, the CMO and the EM SSAB DFO, is responsible for the EM SSAB, DOE field offices are accountable to DOE-HQ

for local board activities and act for EM HQ at the local level for the Deputy Designated Federal Officers, issued by the EM Designated Federal Officer.

The DOE field offices, per the requirements of FACA and the CFR, will:

- Ensure required records on local board costs and membership are maintained, as each agency needs to keep records that will fully disclose the disposition of any funds at the disposal of the local board. **FACA § 12(a); 41 CFR § 102-3.175(b); Manual § VII**
- Make records available to interested members of the public. **41 CFR § 102-3.170; Manual § VII.4**
- Recommend to the DFO, a DOE official (or officials) to serve as the DDFO for the local board. **FACA § 10(e); 41 CFR § 102-3.120**
- Ensure that DOE diversity goals are met through adequate outreach and recruitment efforts for membership. Board membership should reflect a diverse cross-section of those directly affected by, interested, and qualified as appropriate to the nature and functions of the local board. **41 CFR 102-3.60 (b)(3)**
- Provide adequate resources to enable the local board to carry out its functions as described in **FACA § 12 (b); 41 CFR § 102-3.95(a); Charter § 7; Manual § I.6.h**

To enhance compliance with FACA, the CFR, and DOE policy, the DOE field offices will:

- Ensure that member appointment and reappointment packages are submitted to EM Headquarters with nominations for the Assistant Secretary's appointment. Assistant Secretary approval of new and reappointed members is required, except for member appointments to fill an unexpired term or interim appointments. (See section III.C.)
- Provide timely responses to local board recommendations. Local office should strive to provide responses within 90 days.
- Review and, if satisfactory, submit local board operating procedures/bylaws to the DFO for review and coordination with the Office of the Assistant General Counsel for General Law to ensure that they follow FACA and other regulations and requirements.
- Develop and submit draft local annual work plans to the DFO for review and coordination with senior EM HQ leadership. Once EM HQ concurrence is received, the field office will provide final approval.
- Coordinate with DOE-HQ on EM SSAB issues and processes.

C. Designated Federal Officer (DFO)/Deputy Designated Federal Officer (DDFO)/Federal Coordinator

Under **FACA § 10(e) and 41 CFR § 102-3.120**, each federal advisory committee is required to have a DFO, in this case a DOE employee who works closely with the Board. The DFO for the EM SSAB is in the Office of Intergovernmental and Stakeholder Programs. The DFO may designate to local DOE field site employees the responsibility to provide day-to-day management of the boards. These employees are known as DDFOs. A Federal Coordinator may be appointed by the appropriate site official to assist the DDFO in board activities, but this position cannot fulfil the responsibilities assigned to the DFO/DDFO under the Federal Advisory Committee Act (FACA). Federal Coordinators generally facilitate the activities of the local board, bring policy-related and other key issues to the attention of the DDFO, and provide administrative and some managerial support for the board. For instance, some Federal Coordinators work with the board and, particularly the Chair, on agenda creation, presentation and material preparation, and other duties as they are capable. While contractor staff may assist in carrying out described responsibilities, the federal employees (the DDFO, in particular) are accountable for board management.

The DFO/DDFO, per the requirements of FACA and the CFR, will:

- Call for and attend board meetings. **FACA § 10(e)&(f), 41 CFR § 102-3.120(a),(c)&(e)**
- Adjourn board meetings if it is in the public interest. **FACA § 10(e), 41 CFR § 102-3.120(d)**
- Approve meeting agendas. **FACA § 10(f), 41 CFR § 102-3.120(b)**
- Ensure required records on board costs and membership are maintained, as each agency needs to keep records that will fully disclose the disposition of any funds at the disposal of the board. **FACA § 12(a); 41 CFR § 102-3.175(b)**
- Ensure that detailed minutes of meetings, containing items specified in **41 CFR § 102-3.165**, are prepared and duly certified. **FACA § 10(c), 41 CFR § 102-3.165**

DOE Manual 515.1-1 requires that the DFO/DDFO, with Federal Coordinator assistance, as appropriate,

- Ensure that conflict of interest regulations are followed. **DOE Manual § IV.6**
- Arrange for reimbursement of travel expenses as necessary. **DOE Manual § V.6.a.(2).(f)**
- Ensure that each board meeting is held at a reasonable time and in a manner or place reasonably accessible to the public. **DOE Manual § V.3**

To enhance compliance with FACA, the CFR, and DOE policy, the DFO/DDFO/Federal Coordinator will:

- Complete Federal Advisory Committee Act 101 training prior to conducting DDFO/Federal Coordinator activities.
- Complete Federal Advisory Committee Act 201 training within 6 months of being appointed.
- Attend/participate in any board activity where board business will be conducted. This includes administrative meetings and subcommittee meetings.
- Encourage the board to listen carefully to all points of view and to work toward developing group advice.
- Provide information for *Federal Register* notices within the required timeframe to the Office of Intergovernmental and Stakeholder Programs and work closely with field site Public Affairs to issue broad local notification about EM SSAB meetings and activities to, e.g., the local media, public reading rooms, and public libraries.
- Ensure that the board has the opportunity to offer advice and recommendations on work plan items. To support this, the DFO/DDFO/Federal Coordinator will
 - Ensure that EM's decision-making process is clearly communicated.
 - Inform the board members of EM programs, projects, and activities directly affecting the EM SSAB mission and purpose.
 - Work closely and cooperatively with the board to prioritize issues.
 - Work with site management, the DFO, and the local board to develop annual work plans and to approve those work plans on the agency's behalf.

D. EM SSAB Members

The success and effectiveness of the EM SSAB depends largely upon the interest, commitment, input and integrity of its members. EM SSAB members are expected to

- Attend meetings and participate in an open, constructive, and respectful manner.
- Provide advice and recommendations to DOE decision-makers at the field and DOE-HQ levels on relevant EM issues.
- Review, evaluate, and comment on EM documents and other materials.
- Members who are appointed to represent a specific organization are expected to report to those groups on board activities and issues.
- Share with their community information on board activities, invite public participation and to promote interest for potential new members. These kinds of activities, however, are voluntary and are not a requirement for membership.

- When sharing their experiences with other community groups about their position on a local board, speak and/or participate in their personal capacities, not representing the local board. Members asked to participate in community events in their official capacity as a board member must consult with the local board DDFO.

Operating a Local Site-Specific Advisory Board

A. Public Participation and Record-Keeping

Public Participation

In accordance with FACA and the CFR

- Each advisory board meeting shall be open to the public. **FACA § 10(a)(1)**
 - Although subject matter may indicate the need to close a meeting (e.g., for security considerations), **FACA § 10(d)** requires the head of the agency to which the committee reports to approve, in writing, closed sessions of the board. **41 CFR § 102-3.155**
- Each meeting shall be held at a reasonable time and in a manner or place reasonably accessible to the public at facilities that are readily accessible to and usable by persons with disabilities. **41 CFR § 102-3.140(a)**
- Any member of the public shall be permitted to file a written statement with the board. **41 CFR § 102-3.140(c)**
- Any member of the public shall be permitted to speak at designated times. **FACA § 10(a)(3); 41 CFR § 102-3.140(d); DOE Manual § V.3.a.(2).(b)**
- Any meeting conducted in whole or part by teleconference, videoconference, the Internet or other electronic medium must meet the requirements of **41 CFR Subpart D; 41 CFR § 102-3.140(e)**
- Subcommittees may be formed for each local site chapter of the EM SSAB with the approval of the DFO or DDFO. The objectives of the subcommittees are to make recommendations to the full local board with respect to matters which are related to the responsibilities of the full local board. Such subcommittees or workgroups may not work independently and must report their recommendations and advice to the full local board for deliberation and discussion. Subcommittees have no authority to make decisions on behalf of the local board, nor can they report directly to DOE.

To enhance compliance with FACA, the CFR, and DOE policy, EM requires that

- Subcommittee meetings are open to the public and should be noted as such on the local board website. In addition, at least one public comment period should be set

aside during the meeting. At the discretion of the local site management, members of the public may participate in subcommittee meetings in accordance with the EM SSAB Charter but cannot hold leadership roles.

In accordance with the DOE Manual,

- Media representatives attending and reporting on meetings are at liberty to use tape recorders, cameras, and electronic equipment for broadcast purposes. The use of such equipment must not interfere with the orderly conduct of the meeting. To preclude any disruption, news media personnel should be encouraged to position all equipment before the meeting and to defer removal until an ample intermission period or meeting adjournment. **DOE Manual § V.3.b.**

Public Notification

In accordance with FACA and the CFR,

- Notice must appear in the *Federal Register* at least 15 calendar days prior to EM SSAB public meetings. **FACA § 10(a)(2) and 41 CFR § 102-3.150(a).**
- All meetings shall have the advance approval and be attended by the DFO and/or DDFO. **FACA § 10(e)&(f); 41 CFR § 102-3.120(a)&(c)**

In accordance with the DOE Manual,

- Local DOE operations, field, or area offices must ensure that *Federal Register* notices are sent to the Office of Intergovernmental and Stakeholder Programs in timely manner. Whenever possible, 37-day notice will be given. **DOE Manual § V.3.c**

To enhance compliance with FACA, the CFR and DOE policy, EM requires that

- *Federal Register* notices also include the locations where meeting minutes will be made available to the public, an individual to contact to acquire copies of the minutes, and information on the public comment period.
- Meetings are publicized on the board website and in other places that are likely to attract public participation.
- Local DOE operations, field, or area offices ensure that timely notification is provided to the Office of Intergovernmental and Stakeholder Programs in the event a public meeting has been cancelled following the original submission of the *Federal Register* notice.

Minutes and Records

In accordance with FACA and the CFR,

- Detailed minutes of each advisory committee meeting shall be kept on file. **FACA §10(c), 41 CFR § 102-3.165**
- The DDFO must ensure that the meeting minutes are certified by the Chair within 90 calendar days of the meeting to which they relate (**41 CFR § 102-3.165**)
- The local boards and the field offices must maintain in a single location for public inspection and copying copies of records, reports, minutes, transcripts, drafts, working papers, appendixes, studies, agenda, or other documents which were made available to or prepared for or by each local board. **FACA § 10(b); 41 CFR § 102-3.170**
- The field offices and the DDFOs must keep records to fully disclose the disposition of any funds which may be at the disposal of its advisory committees and the nature and extent of their activities. **FACA § 12(a); 41 CFR § 102-3.175(b)**
 - The multi-site structure of the EM SSAB necessitates that fiscal records be developed and maintained at local sites.

In accordance with DOE Manual 515.1-1,

- The minutes must include names of any member who may have recused themselves from a meeting or a portion of it and their reason(s) for doing so. **DOE Manual § V.5.a.(2)**
- Board minutes must be posted on the board webpage within 90 days after the meeting.

To enhance compliance with FACA, the CFR and DOE policy, EM requires that the following electronic submissions be made:

- One copy of all local board reports, minutes, transcripts (where applicable), recommendations and responses, self-evaluations, and EM SSAB work plans to the local reading room and/or other appropriate information resource center(s).
- One copy of each EM SSAB recommendation and the EM response to the DFO at DOE-HQ for files.
- One copy of minutes, annual reports, self-evaluations, and work plans to the DFO at DOE-HQ for files.

Subcommittee and Administrative Meetings

Subcommittees (also referred to locally as “committees”) of the local boards are not required to comply with the provisions of FACA so long as the full local board deliberates on any recommendations before they are approved. **41 CFR § 102-3.35 and 102-3.145.**

The objectives of the subcommittees are to make recommendations to the full local board with respect to particular matters which are related to the responsibilities of the full local board.

Subcommittees may not work independently and must report their recommendations and advice to the full local board for deliberation and discussions.

Subcommittees have no authority to make decisions on behalf of the local board, nor can they report directly to DOE.

To ensure transparency and open communication, EM requires that

- Subcommittee formation must be approved by the DFO/DDFO.
- The DDFO must attend, or designate an EM federal official to be present, during any board activity where board business will be conducted. This includes administrative and subcommittee meetings.
- Subcommittee meetings are open to the public and members of the public can serve on subcommittees.
 - There must be more appointed board members than members of the public serving on the committee.
- Only appointed Board members may serve in leadership roles.
- Subcommittee meetings should be listed on the local board website but do not require a Federal Register notice unless a quorum of the board is expected.
- At least one public comment period should be set aside during the meeting.
- Meeting notes should be developed to capture the discussion and proposed products developed during the meeting. The notes do not have to be published but should be made available if requested.

Annual Comprehensive Review to Headquarters

The DFO is required each year to provide to the GSA Committee Management Secretariat (through the DOE Committee Management Office) an Annual Comprehensive Review (formerly Annual Report) on the activities of the EM SSAB during the preceding fiscal year.

DOE Manual VII. 3(b). Accordingly, local EM SSAB DDFOs and Federal Coordinators must submit each local board's data to the DFO within one month of the close of each fiscal year.

In accordance with FACA and the CFR,

- An informational report from DOE is provided to the GSA at the close of each fiscal year. **41 CFR § 102.105(e) and 102-3.175(b).**
 - The report includes

- The activities, status, and changes in EM SSAB composition during the fiscal year
- The dates of EM SSAB meetings and names and occupations of its members
- The estimated annual cost to DOE to fund, service, and supply the EM SSAB
- Any reports and recommendations submitted by the EM SSAB.

In accordance with the DOE Manual 515.1-1,

- The CMO will issue instructions to the DFO regarding reporting requirements, procedures, and submission dates. The CMO will then be responsible for coordinating the Annual Comprehensive Review. **DOE Manual § VII.3.b.2**
- The DFO, and subsequently the DDFO, is responsible for accurately and completely compiling the requested information by the due date assigned by the CMO. **DOE Manual § VII.3.b.2**

B. Board Recommendations and DOE Responses

FACA, the CFR, and the DOE Manual do not provide specific parameters for Board recommendations or DOE responses. The CFR does suggest that EM continually seek feedback from the Board members and the public regarding the effectiveness of the Board's activities. At regular intervals, EM should communicate to the Board members how their advice has affected DOE programs and decision-making. **41 CFR § 102-3.95(e)**

To enhance compliance with FACA, the CFR, and DOE policy, EM requires that

- In general, DOE should strive to reply to site-specific recommendations within 90 days of receipt. Responses should be in writing. A copy of any recommendation and response should be sent to the Office of Intergovernmental and Stakeholder Programs.

DOE written responses should include the following:

- A clear statement of acceptance or rejection of the recommendation, in whole or in part;
- If the recommendation is accepted in whole or in part, a statement about how the changes will be implemented and in what time frame;
- If the recommendation is rejected in whole or in part, a substantive reason for the decision, as well as possible alternatives for addressing the concerns or issues raised in the recommendation; and
- If unresolved issues still remain, DOE may indicate this in written correspondence to the local EM SSAB with the goal of establishing (or continuing) a near-term dialogue.

C. Membership

Membership Composition

FACA requires that membership be fairly balanced in terms of views represented and functions to be performed. In this regard, local sites must make vigorous outreach efforts and be able to demonstrate that they have attempted to recruit members from all segments of the communities directly affected by EM site activities. In order to comply with both FACA and departmental policies regarding balance and diversity requirements of advisory committees, the DOE Offices of EM, Management (MA), and GC closely scrutinize Board membership. Additionally, a Membership Balance Plan has been established that provides specifics on board point of views, balance factors, and candidate identification process.

In accordance with FACA and the CFR,

- The Board must be “fairly balanced in terms of the points of view represented and functions to be performed.” **41 CFR § 102-3.60(b)(3), Appendix A to Subpart B**

In accordance with the DOE Manual 515.1-1,

- In selecting membership nominees, attention must be given to the conflict of interest considerations discussed in section IV of the guidance. Pursuant to DOE policy, employees of Management and Operating (M&O) and Management and Integration (M&I) DOE contractors may be appointed only when necessary to achieve balance or diversity on a local board. Such individuals must receive a written waiver from the DOE Committee Management Officer. **DOE Manual § IV. 3.b**

The EM SSAB Charter states that “Members shall be from communities directly affected by EM Program activities and reflect a full diversity of viewpoints including environmental, public health, civic groups, workforce, local and Tribal government, education, local businesses, economic development; and demographics such as ethnicity, age, and gender.” **EM SSAB Charter § 12. d.**

In order to achieve balance required by FACA, the CFR and DOE Policy, EM nomination and appointment of members shall be accomplished using procedures designed to ensure a diverse board membership and a balance of representative viewpoints, including, but not limited to, the following:

- Information available from the U.S. Census Bureau may serve as a source for seeking to have board membership reflect the diversity in the affected community and region. Board members are typically drawn from stakeholder groups and organizations or have specific viewpoints, such as
 - Residence in an area potentially affected by EM cleanup activities

- Local governments
- Tribal governments
- Environmental and public health organizations
- Labor organizations
- Educators
- Tribal, Hispanic and other Minority organizations
- Business groups
- Civic groups. **DOE Manual § IV. 3.a2.**
- Federal, state, tribal and local government officials are encouraged to recommend prospective members for the local EM SSAB to EM.
- The Assistant Secretary or DOE Field Managers may request that other federal, state, local, or tribal governments name liaisons to the EM SSAB to provide information and represent their agency's interests at local meetings. Liaisons may attend and participate in board meetings, but do not have voting privileges and are not included in a quorum.

Member Appointment and Reappointment

In accordance with FACA and the CFR,

- Membership terms are at the sole discretion of the appointing or inviting agency. **41 CFR § 102-3.130(a)**

In accordance with the DOE Manual 515.1-1,

- Appointments should be staggered. **DOE Manual § IV.2.e.1**
- GC and the CMO will review nominations to the Board to ensure compliance with FACA requirements, as well as GSA and departmental requirements. **DOE Manual § I.6.g, IV.2.b**
- EM must include the following information in member nomination packages (see **DOE Manual § IV. 5.a**):
 - A memorandum from the field manager to the Assistant Secretary for EM recommending the nominees for membership;
 - A copy of the current charter;
 - Up-to-date biographies for all proposed and continuing members;
 - The names and companies of DOE M&O and M&I contractor employees requiring letters of exception to serve on the Board;
 - The names and companies of other DOE contractor employees or consultants proposed to serve on the Board;
 - Recruitment efforts conducted to attract new members in the current membership drive;
 - Completed membership criteria matrices for proposed and current members; and
 - Letters of invitation to each member for signature by the Assistant Secretary.

- The Secretary of Energy has delegated authority for EM SSAB member appointments and reappointments to the Assistant Secretary for EM. In limited cases (specifically, for site manager appointments to replace members who are not serving out their terms) and with prior coordination with the EM Office of Intergovernmental and Stakeholder Programs and the DOE Office of General Counsel, the authority to appoint has been delegated to the Field. (See § III.C.)
- Appointments and reappointments require concurrence from the Office of Intergovernmental and Stakeholder Programs, GC, MA, and the CMO. **DOE Manual § IV.5.b**
- DOE retains appointment and removal authority. **DOE Manual § IV.2.g**

Delegated Authority to the Field for Member Appointments

To enhance compliance with FACA, the CFR and DOE policy, the Assistant Secretary for EM has delegated limited authority to appoint new EM SSAB members to the DOE EM field office, with prior coordination with the Office of Intergovernmental and Stakeholder Programs and the Office of General Counsel.

- The field can replace members who have resigned with time remaining in their membership terms under the following terms and conditions:
 - The appointments can be made *only* for the remainder of the previous member's term
 - No more than 20% of members can be appointed by any one site in any given calendar year
 - When appointing new members under this delegated authority, DOE field office managers must comply with FACA, GSA and DOE regulations, including appropriate conflict-of-interest restrictions.
- The DFO must be advised of all such appointments, and all relevant information must be provided (i.e., name, contact information, biography, and matrix information) in a timely manner. The DFO and GC must concur on the site appointment.

Delegated Authority to the DFO to Appoint Interim Members

To ensure functionality of the board, current members who have been formally proposed for reappointment to the Assistant Secretary in accordance with DOE policy may continue to serve in an interim status for up to 90 calendar days after their current term expires. Individuals in interim membership status must continue to abide by all laws and policies applicable to their membership on the board. All board members serve at the pleasure of the Secretary, and any membership on the board may be terminated without notice.

Removal and Resignation of Members

Local offices may recommend to the Designated Federal Officer that local board members be removed from the EM SSAB as deemed necessary to carry out the mission of the EM SSAB. As members serve at the pleasure of the Assistant Secretary for EM, recommendations for removal must be approved by the Assistant Secretary, after concurrence by the Designated Federal Officer. (See section II.D of this guidance for EM SSAB member roles and responsibilities.)

To enhance compliance with FACA, the CFR and DOE policy, EM requires that

- Members who wish to resign from the Board are requested to submit their resignation in writing to the local DDFO, the local EM SSAB Chair. The DDFO is responsible for notifying the DFO in the Office of Intergovernmental and Stakeholder Programs of the resignation.

Community Education and Member Recruitment

To enhance compliance with FACA, the CFR and DOE policy, EM requires that

- Field office staff ensure the community is made aware of and engaged in local board activities.
- DDFOs and Federal Coordinators ensure that board activities are appropriately coordinated with other field office public involvement activities.
- The board members represent a full diversity of viewpoints and demographics that are reflective of the community from which the board draws its members. Recruitment efforts should be targeted to achieve diversity through consideration of the communities affected by DOE's cleanup activities and the individuals who reside in those communities.
- Community education and membership recruitment efforts may include, but are not limited to: new media tools, targeted mailings, speaking engagements, recruiting tables at public events, notices in newsletters, press releases, advertisements in local and regional papers, advertisements on websites, and radio and television advertisements.

II. Conflict of Interest

Members of the EM SSAB are not Federal employees. However, in order to protect the integrity of the EM SSAB and the credibility of its work product, as a matter of policy, DOE requests that representative members be recused from working on matters before the advisory committee in which they and others (e.g. some family members and entities they are affiliated with) have a direct financial interest.

Per DOE M 515.1-1, Advisory Committee Management Program, employees of DOE site/facility management and operating or management and Integration contractors are ineligible for advisory committee membership. Appointing, or reappointing employees, of these entities as local board members requires a memorandum of exception that provides a justification for the appointment, and why the appointment will not result in a conflict of interest; and must be included in the board's membership package. The CMO has the authority to approve a memorandum of exception.

To enhance compliance with FACA, the CFR and DOE policy, it is EM policy that the appointment or reappointment of employees of prime contractors (defined as a contractor with a direct contract with the DOE Office of EM) is also subject to the above requirements of DOE M 515.1-1.

If such a member is appointed, the DFO and local site DDFO are required to ensure that the appointment of this member will not result in a conflict of interest or appearance of such conflict, including ensuring that the member be recused from voting on issues that would have a direct and predictable effect on his/her financial interests resulting from any employment interests.

All members should advise the local board chair and the DDFO of a potential or actual conflict in advance of any discussion of such. Meeting minutes must contain the names of any members who recused themselves from the meeting, the reason for the recusal and a statement that they did not participate in the matter from which they were recused, or that they were not present during the discussion.

The Assistant General Counsel for General Law reviews new member qualifications for conflict-of-interest issues and proposed mid-term replacements (section III.C.3 of the guidance). If a proposed mid-term appointment exhibits a potential conflict or conflict of interest, the local DDFO must provide any relevant materials and consult with the Designated Federal Officer and the Office of the Assistant General Counsel for General Law if necessary.

All Board members must adhere to the following general conflict-of-interest requirements:

- A member shall refrain from any use of his or her membership, which is, or gives the appearance of being, motivated by the desire for private, professional, or financial gain;
- A member shall not use either directly or indirectly for private or professional gain for him/herself or for his/her represented group any inside information obtained as a result of advisory committee service;
- A member shall not use his or her position in any way to coerce or give the appearance of coercing another individual to provide a financial benefit to the member with the conflict of interest or any person with whom that member has family, business, or financial relationships.

III. Funding and Other Support

In 1997, funding of the local boards under the EM SSAB became the responsibility of the DOE field offices. Accordingly, DOE field office managers provide adequate funding to local boards to enable them to operate efficiently and effectively.

In accordance with FACA and the CFR,

- DOE will provide adequate support services as necessary. **FACA § 12(b); 41 CFR § 102-3.95(a)**

To enhance compliance with FACA, the CFR and DOE policy, EM requires that

- EM SSAB procurement mechanisms will be structured and managed to ensure proper stewardship of this stakeholder activity and to increase accountability and visibility of resources provided and subsequently used. The three options for funding administrative support for the EM SSAB are:
 - Non-Profit Organization (Section 501(c) of the IRS Code)
 - Direct DOE Federal Management and Support
 - Support Services Contract with a Section 8(a) Small Business.

To enhance compliance with FACA, the CFR and DOE policy, EM requires that

- Adequate support services may include, but are not limited to
 - Office space
 - Necessary supplies and equipment
 - Federal staff support
 - Coordination of meetings and agendas
 - Support monitoring emerging issues and activities
 - Funding for an independent facilitator if necessary to ensure that Board members set and reach objectives, maintain focus, work as a team, strive for consensus, and operate at maximum efficiency and
 - Funding for independent technical reviews of key issues or ongoing technical assistance to the board. However, field offices should ensure that technical assistance funding is used to complement, rather than duplicate, the technical programs of DOE and its regulating agencies.
- After the annual work plan is approved by the DDFO, the DOE operations, field, or area offices should provide sufficient funding to carry out the work plan.
- DDFOs and Federal Coordinators should report the level of funding, including technical assistance funding, to the Designated Federal Officer in the form of an Annual Comprehensive Review of all EM SSAB activities at the end of each fiscal year.

VI. Compensation and Travel Expenses

A. Board Service Is Not Compensable

The EM SSAB Charter provides that: “Members of the Board serve without compensation; however, members may be reimbursed in accordance with the Federal Travel Regulations for authorized travel and per diem expenses incurred while participating in Board activities.”

In accordance with the DOE Manual 515.1-1,

- (Coverage) Members will be reimbursed for travel expenses and per diem only when they are on site approved board business while away from their residence or regular places of business. **DOE Manual § VI.3.a**
- (Tickets) Generally, DOE will provide members with a Government fare common carrier ticket. If DOE is unable to provide a member with a common carrier ticket, the member may use personal means to purchase transportation, but when costs exceed \$100, a senior DOE official is required to review the circumstances of the purchase before reimbursement, which may not exceed the Government authorized fare. **DOE Manual § VI. 3.b**
- (Major travel to and from meetings) Airfare is limited to the regular, round trip, coach-class fare or, when available, Government contract airlines between the member’s residence or regular place of business and the meeting site. Train travel is authorized when it is advantageous to the Government. A member may also travel to and from the meeting in his/her private vehicle, and DOE will reimburse the member at the mileage allowance rate and for fees. **DOE Manual § VI.3.c**
- DOE will reimburse members for lodging, meals, and incidental subsistence expenses associated with site approved travel for meetings using a per diem allowance (i.e., a daily payment instead of reimbursement for actual expenses). **DOE Manual § VI.3.e**

To enhance compliance with FACA, the CFR and DOE policy, EM requires that

- Members with questions on travel requirements or reimbursements should consult with the local field office prior to commencing travel or completing the reimbursement voucher.
- In addition, DDFOs and Federal Coordinators are responsible for determining, after consultation with appropriate offices and/or individual at their field sites, whether it is appropriate to fund official travel for non-members to specific EM SSAB-related activities, and, if so, how it should be funded.
- Funding and compensation for travel is considered part of the annual budget allocation for the local board.

VII. Food and Refreshments

The Committee Management Secretariat at US General Services Administration does not have any government-wide guidance on providing refreshments at government-sponsored meetings or conferences. The legality of decisions to provide light refreshment should be determined by agency counsel on an event by event and department by department basis.

In general, a Federal agency or department may not use appropriated funds to purchase items such as food and refreshments because they are considered personal expenses. Although desirable, serving such items at meetings is not considered a necessary expense and thus it cannot be provided with appropriated funds.

There are limited situations, defined by specific statutory authority, in which the provision of food by agencies is permitted. For example, Federal Travel Regulation (FTR) allows for the Department of Energy (DOE) to pay EM SSAB members a per diem if the member is in a travel status. In addition, food and refreshments may be provided if the meeting facility provides the food at no added cost to the government. Some hotels include food and refreshments in the cost of renting the facility and the hotel does not itemize this cost separately on the bill. In this situation, the fee for the rental facility must be “all-inclusive,” meaning it must remain the same whether or not the food is accepted. Accordingly, if the invoice for the rental facility includes a separate line item regarding food or refreshments it may not be paid for and must be removed from the invoice.

There are times when non-Federal entities, including contractors, offer to donate or pay for the food and refreshment at EM SSAB meetings. Federal employees are reminded that the Federal ethics laws prevent them from accepting a gift that is provided by a prohibited source (e.g., contractor) or because of their official position. This same restriction has been extended by way of DOE policy to EM SSAB members. Food and refreshments are considered gifts. There are exceptions to this rule. The most applicable exception that allows Federal employees and EM SSAB members to accept food and refreshments is when the per person cost of the food and refreshments is less than \$20 per occasion and does not exceed \$50 from the same source in aggregate in the calendar year. As a reminder, contractors might offer to pay the costs of food and refreshments at EM SSAB meetings; however, the contractor might submit this expense to DOE for reimbursement. Consistent with the authorities above, DOE is not authorized to reimburse a contractor for food and refreshments at EM SSAB meetings except in very limited circumstances.

This guidance applies to both public meetings, subcommittee meetings, and meetings that are considered administrative and preparatory.

VIII. Board Termination

The EM SSAB Charter provides that the Board terminates two years from the most recent Charter filing date and may not meet or take any action if the Charter is not renewed biennially.

- Criteria for termination of the EM SSAB are contained in **FACA § 14, 41 CFR § 102-3.55(a) and DOE M 515.1-1**

To enhance compliance with FACA, the CFR and DOE policy, EM requires that

- Once the EM mission is completed at a site where there is a local board under the EM SSAB Charter, the local board will be terminated.
- Other criteria for termination include the criteria in FACA and the CFR. The decision to terminate a committee may include a determination that the advice is no longer essential to EM or is no longer in the public interest; that the committee has not been staffed for one year; or that the committee has not met for a two-year period. **DOE Manual § III.8.a**
- If the chartered purpose for a local board cannot be fulfilled, the DDFO, in consultation with DFO and members of the local EM SSAB, will prepare a timetable for disestablishing the local board. The resulting termination package will be sent through the same concurrence chain as a member appointment package.
- The package, to be signed by the field office manager at the local board's site, should note the reasons for the board's suggested termination, as well as its accomplishments over the years.

In accordance with the DOE Manual,

- Letters of appreciation from the Assistant Secretary to the Board members for services rendered must be included in the termination package. **DOE Manual § III.8.b.1**

VIII. Acronyms & Definitions

CFO Chief Financial Officer

CFR Code of Federal Regulations

CMO Committee Management Officer

DDFO Deputy Designated Federal Officer

DFO Designated Federal Officer

DOE U.S. Department of Energy

EM Office of Environmental Management

EM SSAB Environmental Management Site-Specific Advisory Board

EM-1 Assistant Secretary for EM

EPA Environmental Protection Agency

FACA Federal Advisory Committee Act

FTR Federal Travel Regulations

GC General Counsel

GSA General Services Administration

MA Office of Management

NE Office of Nuclear Energy

NNSA National Nuclear Security Administration

MA Office of Management and Administration

OMB Office of Management and Budget

SC Office of Science

Advisory Committee: any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof which is established by statute, established or utilized by the President, or established or utilized by one or more agencies, in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government. **FACA § 3(2)**

EM SSAB Charter: The governing document for the EM SSAB, including all local boards, which is renewed biannually and approved by the CMO.

DOE Field Office: Any DOE area, field, and site offices, and/or business centers located outside the Washington, D.C. area.

DOE Manual: “Advisory Committee Management Program” Manual, DOE M 515.1-1, 10/22/07

Subcommittee: any subset, task force, panel, or other similar group made up of appointed members of the board that gathers to discuss board-related topics or to conduct board business.

IX. Applicable Law, Regulations, Orders and Policies

Statutes: Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2 (1997) (original version at Pub. L. No. 92-463, 86 Stat. 770 (1972))

<http://www.gsa.gov/portal/content/104514>

Regulations: Federal Advisory Committee Management, 41 CFR Part 102-3. See also: 52 Fed. Reg. 45926 (1987). http://www.access.gpo.gov/nara/cfr/waisidx_99/41cfr105-54_99.html

Specific Agency Regulations: Office of Human Resources and Administration, U.S. Department of Energy (DOE), Pub. No. DOE M 515.1-1, *Advisory Committee Management Program* (2007) (DOE Manual). <https://www.directives.doe.gov/directives/0515.1-DManual-1/view>

Charter: Office of Environmental Management, Office of Intergovernmental and Stakeholder Programs, U.S. Department of Energy Amended Charter: Environmental Management Site-Specific Advisory Board (2022). <http://energy.gov/sites/prod/files/em/EMSSABCharter-FINAL.pdf>

Membership Balance Plan: Contact the Office of Environmental Management, Office of Intergovernmental and Stakeholder Programs

Delegations:

- Department of Energy Delegation Order No. 00-002.00B to the Under Secretary for Energy, Science, and Environment (October 4, 2004).
- <https://www.directives.doe.gov/sdoa/delegations-documents/002.00B/view>
- Department of Energy Re-delegation Order No. 00-002.03B to the Assistant Secretary for Environmental Management (January 29, 2007).
- <https://www.directives.doe.gov/sdoa/delegations-documents/002.03B/view>