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in this part shall apply to all advisory committees established by the Federal Emergency Management Agency (FEMA), including advisory committees created pursuant to any act of Congress relating to the United States Fire Administration, Federal Insurance Administration, or any other component of the Federal Emergency Management Agency, except to the extent that any act of Congress establishing an advisory committee reporting to the agencies specifically provides otherwise.

(b) This part does not apply to interagency advisory committees or advisory committees established by the President unless specifically made applicable by the establishing authority.

(c) This part does not apply to any local group, contractor, grantee, or other organization whose primary function is to render public service with respect to a Federal program, or any state or local committee, counsel, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies.

[45 FR 64180, Sept. 29, 1980, as amended at 48 FR 44543, Sept. 29, 1983; 50 FR 40007, Oct. 1, 1985]

§ 12.2 Definitions.

As used in this part—

Act means the Federal Advisory Committee Act (86 Stat. 770).

Administrator means the Administrator of the Federal Emergency Management Agency.

Advisory Committee is used as per the meaning set forth in section 3(2) of the Act.

Agency means the Federal Emergency Management Agency, established by Presidential Reorganization Plan No. 3 of 1978, or any component thereof.

Administrator, GSA means the Administrator of General Services.

FEMA means the Federal Emergency Management Agency.

GSA means the General Services Administration.

Presidential Advisory Committee means an advisory committee which advises the President of the United States.

Secretariat means the Committee Management Secretariat of the General Services Administration.

Any officer of the Federal Government means any agency official or employee of the Federal government designated to perform duties with respect to an advisory committee established under this part.

Nonstatutory advisory committee means an advisory committee not established by statute or reorganization plan.

[45 FR 64180, Sept. 29, 1980, as amended at 74 FR 15337, Apr. 3, 2009]

§ 12.3 Policy.

In determining whether an advisory committee should be created, and in reviewing the functions of operating advisory committees, the Agency will:

(a) Establish new advisory committees only when they are determined to be essential, keeping their number to the minimum necessary to accomplish the assigned mission of the agency or its components;

(b) Provide standards and uniform procedures to govern the establishment, operation, administration, and duration of the advisory committees;

(c) Terminate the advisory committees when they are no longer necessary to carry out the purposes for which they were established; and

(d) Keep the Congress and the public informed with respect to the number, purpose, membership, activity, and cost of the advisory committees.

§ 12.4 Interpretations.

Except as specifically authorized in writing by the Administrator, including internal instructions, no interpretation of the meaning of the regulations in this part by any employee or officer of the Agency, other than a written interpretation by the Chief Counsel, will be recognized to be binding upon the Agency.

§ 12.5 Advisory committee management officer.

(a) The Director, Records Management Division, Office of Management serves as FEMA's advisory committee management officer and shall:

(1) Exercise control and supervision over the establishment, procedures, and accomplishments of the advisory committees established by the Director; and

(2) Assemble and maintain the reports, records, and other papers of any advisory committee during its existence.

(b) The name of the Advisory Committee Management Officer designated in accordance with this part shall be provided to the Secretariat.

[45 FR 64180, Sept. 29, 1980, as amended at 47 FR 13149, Mar. 29, 1982; 48 FR 44543, Sept. 29, 1983; 49 FR 33879, Aug. 27, 1984; 74 FR 15338, Apr. 3, 2009]

§ 12.6 Establishment of advisory committees.

(a) No advisory committee shall be established under this part unless such establishment is:

(1) Specifically authorized by statute or the President of the United States; or

(2) Determined as a matter of formal record by the Administrator after consultation with the Secretariat, with timely notice published in the FEDERAL REGISTER as a matter of the public interest, in connection with the performance of duties imposed on the agency by law.

(b) The determination required by paragraph (a)(2) of this section shall:

(1) Contain a clearly defined purpose for the advisory committee;

(2) Require the membership of the advisory committee to be fairly balanced in terms of the points of view represented in the functions performed by the advisory committee;

(3) Contain appropriate provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgment;

(4) Contain provisions dealing with the date for submission of reports (if any), the duration of the advisory committee, and the publication of reports and other materials, to the extent that the agency determines the provisions of § 12.16 of this part to be inadequate; and

(5) Contain provisions which will assure that the advisory committee will have adequate staff (either supplied by the Agency or employed by it), will be provided adequate quarters, and will have funds available to meet its other necessary expenses.

(c) Consultation with the Secretariat may be in the form of a letter from the Agency describing the nature and purpose of the proposed advisory committee, including an explanation of why the functions of the proposed committee could not be performed by FEMA or by an existing committee. The letter should describe the Agency's plan to attain balanced membership on the proposed committee, as prescribed in paragraph (b)(2) of this section. If the Secretariat is satisfied that the establishment of the advisory committee will be in accord with the Act, the Agency shall certify in writing that creation of the advisory committee is in the public interest.

(d) Unless otherwise specifically provided by statute or Presidential directive, advisory committees shall be utilized solely for advisory functions.

§ 12.7 Charter.

(a) No advisory committee established under this part shall meet or take any action until an advisory committee charter has been filed with the Agency and the standing Committee or Committees of the Senate and House of Representatives having legislative jurisdiction over the FEMA component to which the advisory committee renders its advice.

(b) The charter required by paragraph (a) of this section shall contain at least the following information:

(1) The committee's official designations;

(2) The committee's objectives and the scope of its activities;

(3) The period of time necessary for the committee to carry out its purposes;

(4) The FEMA component and official to whom the committee reports;

(5) The FEMA component responsible for providing the necessary support for the committee;

(6) A description of the duties for which the committee is responsible, and, if such duties are not solely advisory, specification of the authority for such functions;

(7) The estimated annual operating cost in dollars and man years for the committee;