

Reeve,

I have read both your draft recommendation and the proposed alternative (which I do not support mainly because I think charters are a good thing - how can you know where you are going unless you get your directions from the agency from the start?). I am writing now to give you some minor suggestions that are not worth taking the time of the committee tomorrow.

Page 1, second paragraph: I would note that ACUS is a FACA committee & abides by its requirements.

Page 2, first full paragraph, next to last line: does “existing” refer to all committees or only discretionary ones?

Page 3, full paragraph: I suggest making clear whether these requirements for SGE's are disclosure or disqualification or other.

Same paragraph, sentence after note 19: it would be clearer if you moved the words “upon request” to the start of the sentence. Also, next sentence, I would insert “discretionary” after “existing” (assuming that is correct).

Page 5, second full paragraph: The part before note 28 sounds like the burdens are imposed by FACA or GSA, but note 28 and the recommendation are to the contrary. Clarify/soften the language in text.

Page 6, note 30. I am disappointed that the contractor exemption change is not included, but yield to your belief that you do not have the record needed to support it. Can you at least commit to trying to develop that record, in this footnote? If not, I may raise this in committee or at the plenary (OK, I was one of the losing counsel in *Food Chemical News*, but it is a terrible decision).

Recommendation 3: I do not oppose it, but there is no basis in the preamble for it. It looks like the current number is within the cap and so what's the problem. Of course, it is silly to make agencies compete for advisory committees, like budget dollars, and there may be other reasons that should be included, if briefly.

Page 7, Note 32: I would change the phrase “is not required to approve” to “may delegate the authority to approve,” which sounds more accurate.

Recommendation 5, line 3: Not to quibble too much, but can electronic meetings be “in writing”? I would delete the phrase.

Page 8, note 33: Does GSA have the authority to issue regulations doing these other things? If so, should ACUS recommend that it consider doing them?

Recommendation 7(a). I suggest that this recommendation be amended to add a requirement that the basis on which a person is designated as an SGE, including basic information on employment and financial interests be set forth, so that everyone knows the biases of all committee members.

Recommendation 7(c): 18 USC 208(d)(1), which I have pasted in below,<sup>1</sup> is a highly convoluted provision and I fear that the import of what you want disclosed and redacted will not be clear. Without trying to draft the specific language, I think what should be disclosed is the kind of information that the public would receive on the forms that government officials must file every year: name of entity and a range of dollar amounts. That works for people who have contracts with an interested party or own stock, but would not work for full time employees of such entities or lawyers who represent such entities because those circumstances could not obtain for government employees. The point is to obtain information that would enable the public to assess the nature and general degree of connection to an interested entity without disclosing the details of the connection. I would be happy to work with the committee on this, but the current attempt at shorthand does not do the job properly, even though I think we are in agreement on what should be disclosed regarding waivers. I would also have similar disclosures for SGE's. I think GSA can mandate that agencies do this if the agencies do not and think we should say that as well.

Recommendation 8, line 4: The word "critical" could be seen to be very narrow. How about "important" instead?

Recommendation 10, line 2: Insert the words "among committee members" after "balance" to clarify what is being balanced.

Same recommendation, next to last line after "time," insert "or unnecessarily increasing the size of the committee" which is another problem with excessive balancing.

Recommendation 11(b): Do you envision posting only the names of the prospective committee members? I would suggest adding "a brief statement of their experience that is relevant to the work of the committee."

Further in that recommendation, in the last line on page 10, I think you mean to include the words "of those comments" after "disclosure," but, if not, then some clarification is needed.

Further in that recommendation, in line 1 on page 11, I think the word "select" should be "announce," since the selection has not yet taken place, but the announcement has.

Hope these are helpful. Most of them will not be made tomorrow, but I may raise the more significant ones. I will be around today and in the morning if you want to discuss them.

Alan

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<sup>1</sup> (d)(1) Upon request, a copy of any determination granting an exemption under subsection (b)(1) or (b)(3) shall be made available to the public by the agency granting the exemption pursuant to the procedures set forth in section 105 of the Ethics in Government Act of 1978. In making such determination available, the agency may withhold from disclosure any information contained in the determination that would be exempt from disclosure under section 552 of title 5. For purposes of determinations under subsection (b)(3), the information describing each financial interest shall be no more extensive than that required of the individual in his or her financial disclosure report under the Ethics in Government Act of 1978.