




AUG 15 1997

MEMORANDUM FOR ALL BUREAUS AND HEADS OF OPERATING UNITS

FROM: William M. Daley 

SUBJECT: Advisory Committees, Business Development Committees,
District Export Councils, and Fishery Management Council
Programs

The private-sector, whether represented by an individual business executive, academic professor, scientist, or a non-profit organization, plays a key role in helping the Federal government develop policies and initiatives, which best serve the American public. The Department through many of its bureaus has established a number of formal mechanisms to marshal this expertise.

The policy below is designed to promote uniformity in procedures, recordkeeping, and documentation without hindering the success of these important programs. For the purpose of this memorandum, Advisory Committees, Business Development Committees, District Export Councils, and Fishery Management Councils will be referred to as the "Committees." These procedures should be followed by all agencies and Departmental bureaus for all Committees where members are appointed by an employee of the Department.

Purposes and Results

Because of the difficulty in identifying (and measuring/quantifying) the extent of each Committee's input in the Department's decision-making and policy development process, each bureau will review each of its respective Committees and revise its charters to make clear how the specific goals and objectives of the bureau will be achieved by the efforts of the Committee. Each bureau will develop an improved process for capturing the results of each Committee's efforts and will submit an annual written summary of each Committee's actions.

Current Process for Selecting Committee Members

The current process for recruiting candidates and selecting members varies depending on the Committee and the bureau responsible for it. In order to make the process for recruiting and selecting private-sector members for the Committees more standardized, clear, and transparent, individuals will be recruited and selected for membership on the basis of objective, written criteria and in accordance with the Committee charter and any statutory requirements.

As is the case for trade missions, the criteria developed for each Committee will be published in advance, incorporated into the charter or statutory document, and adhered to throughout the selection process. There must be a demonstrably legitimate business or technical purpose for the inclusion of each private-sector member that is consistent with the establishment document. To ensure outreach to the broadest pool of candidates and the integrity of an open and transparent selection process, the following steps will be taken:

A. Membership Criteria

Each bureau will be responsible for developing its own Committee criteria for the selection of private sector members. These criteria, which will be set forth in the charter, shall be based upon the following factors to the extent they are relevant to the purpose of the Committee:

- Scope, nature, and desired outcome of the Committee as described in the charter or statutory document;
- Size of the Committee (number of available slots);
- Expressed interest in participation;
- Relevance of individual's expertise and technical skills; and
- Other considerations relevant to the purpose of the Committee as described in the charter.

B. Recruitment of Private-Sector Members

The Department will utilize a comprehensive recruitment process designed to reach as many potential private-sector members as possible. Notification will occur through the following means:

- publishing a summary description of the Committee in the Federal Register;
- posting a summary description of the Committee on the Internet, through our various Home Pages, the National Trade Data Bank, and Stat-USA;
- distributing the Charter and other information to some or all of the following, as appropriate--
 - national trade associations, such as the U.S. Chamber of Commerce, the National Federation of Independent Businesses, and the National Association of Manufacturers, and relevant trade associations (depending upon nature of the Committee);

- trade publications, including the Commerce Business Daily, the Journal of Commerce, Commerce's Business America, and other sectoral publications;
- universities and other non-profit institutions as are appropriate;
- Commerce Department bureaus, field offices, and U.S. Export Assistance Centers;
- other government offices and agencies; and
- particular interested parties that fit the Committee criteria.

Individuals that emerge from the recruitment process will be evaluated for their ability to contribute to the goals and objectives of the Committee according to the selection criteria. Individuals and the organizations they represent will be vetted in accordance with the process set forth in the attached February 25, 1997 memorandum to Heads of Operating Units and Secretarial Officers regarding the vetting system guidelines, as soon as possible following tentative selection. This vetting system has three components: (1) an internal review for possible appearance problems; (2) an external review for possible appearance problems; and (3) a recusal/ethics agreement review.

C. Transparent Decision-making

Each committee will have written guidelines as to whom gathers information on prospective members, who makes initial recommendations, who clears on those recommendations, and who makes the final decision.

D. Recordkeeping

A Committee file will be maintained for each Committee. That file will contain the establishment document (charter), a summary of the means used to recruit private-sector members, and the written guidelines on the decision-making process.

E. Tenure

Individuals that are chosen for membership will serve a term that best fits the needs and objectives of the Committee. Members will serve a two or three-year term with staggered terms, to ensure that at least one-third of the membership is replaced annually. Upon the completion of an individual's term, the Committee will repeat the recruitment and selection process by casting a broad net or extending the individual's term as long as the member proves to work effectively on the Committee and his/her expertise is still needed. The Committees that have a short-term existence (i.e., terms that are set to expire in two or three years) may keep the same membership for the Committee's duration.

Security Clearances

As bureaus review the goals and functions of the Committees, they will review whether the committees actually require access to classified National Security Information. This review will be zero-based. If Committee members do not regularly need classified information to carry out the duties and functions of the Committees, clearances are unnecessary and should not be requested.

Each bureau will provide substantive justification for clearances, specify the frequency of information in national security interest, what government agency will be supplying the information, and the level of classification.

Security clearances will not be issued in situations where the claim that "national security issues are being discussed" is used as a substitute for the discussion of time sensitive proprietary information that is not classified National Security Information.

Security clearances will be issued only after all justifications are presented and the minimum background investigations have determined an individual suitable for membership.

Costs

Those organizations which serve to advise the Department of Commerce in its partnership with the public and private sectors are disparate in nature, purpose, and the relationships that they have with the Department. Therefore, the level of activity and the financial resources that they require to support that activity differ significantly. While the majority of these expenditures relate to the time Federal staff devotes to supporting the Committees' activity, other significant categories of expenditures include travel and printing.

Because of the varying degrees between committees and their expenditures, we will continue to hold those operating units that are working cooperatively with a Committee responsible for ensuring that adequate funds are budgeted, and that only appropriate costs are paid.

Rules that Govern

All committees will, at a minimum, adhere to the Department's general ethics standards for Government officials. Those committees that serve in an advisory capacity for the President or one or more agencies or officers of the Federal Government will, in addition to the Department's general ethics standards, continue to adhere to the Federal Advisory Committee Act (FACA) Regulations. Requiring all Committees to adhere to one standard set of regulations would fundamentally change the nature of their missions (e.g., District Export Councils, Fisheries Management Councils).

Attachment: February 25, 1997 memorandum regarding Vetting System.



UNITED STATES DEPARTMENT OF COMMERCE
Office of the Secretary
Washington, D.C. 20230

FEB 25 1997

MEMORANDUM FOR HEADS OF OPERATING UNITS AND
SECRETARIAL OFFICERS

FROM: Peter Scher
Chief of Staff

SUBJECT: Vetting System

This memorandum addresses the implementation of a new vetting system concerning meetings between the Secretary and non-Federal employees. Although we have had an internal system for vetting, the new system is designed to ensure that we can identify, in a more systematic way, potential appearance problems before scheduling meetings in which the Secretary will participate.

As of February 18, 1997, the bureaus and offices of the Department will be responsible for conducting all vets for requested meetings with the Secretary. This task was performed previously by the Office of the General Counsel.

The new vetting system will involve a two-stage process. In the first stage, all requests for the Secretary to meet with non-Federal employees must include both a scheduling request form and "Advance Review Form" (see attached). The latter form will certify the completion of the three following tasks by the recommending bureau or office.

1. An internal review for possible appearance problems. This review will be conducted by an e-mail sent from the recommending bureau or office to each of the Department's bureaus (in particular, the Bureau of Export Administration (BXA)) for review for any appearance problems. A sample e-mail is attached. Each bureau or office is required to designate a person or persons as the "vetting contact" person. The name, telephone number, and e-mail address of the designated individual should be forwarded to Barbara Fredericks, the Assistant General Counsel for Administration, at (202) 482-5384. A list of the contacts will then be forwarded to each of the persons so designated.
2. An external review for possible appearance problems. This review will be conducted by the recommending bureau or office by performing a LEXIS/NEXIS search in the NEWS/CURNWS (covering the two-year period prior to the date of the request) library and file on the following information for each request: (a) names of each individual participating in the meeting or event. (suggested search: first name w/3 last name); and (b) names of each company represented at the meeting or event, unless the company is a well-known company (e.g., appears on the Fortune 1000 list). If an unwieldy number of entries is produced by the search, the following are examples of connectors and terms that may be used to narrow the results: w/30 (fine or penalty or indicat or

convict! or investigat! or crim! or controvers! or (Commerce w/3 Department)).

As noted above, each bureau or office is required to designate a person or persons who have the capability and training to perform the foregoing task.

3. **Recusal/Ethics Agreement Check.** Each recommending bureau or office will be given a copy of the Secretary's disqualification statement (recusals) and ethics agreement and is responsible for consulting with OGC if an entity or individual appearing on the Secretary's disqualification statement or ethics agreement will be a participant at the meeting or event.

All scheduling requests not initiated by a bureau or office must be logged in with and reviewed by the Office of Scheduling and then assigned for vetting to the bureau or office which is responsible for the issue(s) to be discussed at the proposed meeting or event. When requests are made by business executives or industry representatives and do not fall clearly within one bureau or office of the Department, the requests will be assigned to and handled by the Office of Business Liaison (OBL). Requests from state and local officials or groups will be handled by the Office of Legislative and Intergovernmental Affairs (OLIA). Requests from members of the news media should be referred to the Office of Public Affairs (OPA).

The second stage of the new vetting system is necessary only if possible appearance problems are identified in the initial stage of the vetting process. Because of their routine nature, the majority of scheduling requests will not need to reach this stage. However, whenever the Advance Review Form indicates that there is a possible appearance problem or the Secretary's recusal or ethics agreement is implicated, then the scheduling request must be reviewed by the Chief of Staff, who will consult with OGC and the bureau or office head.

In such cases, the Chief of Staff will compare the substantive purpose and need of the meeting with the issues set forth on the Advance Review Form. If the Chief of Staff determines that the purpose or need for the meeting or event outweighs the issues of concern set forth on the Advance Review Form, the meeting may be scheduled. If in the judgment of the Chief of Staff the meeting should not be placed on the schedule, the recommending bureau or office will inform the requesting party of the determination. If in the judgment of the Chief of Staff the meeting should be scheduled, but one or more of the proposed participants should not be present, the recommending bureau or office will inform the

requesting party of such. In all cases where there are vetting issues and the meetings or events are scheduled, OPA will be informed immediately of the nature of those issues.

cc: Cheryl Bruner
Jane Bobbitt
Anne Luzzatto
Barbara Fredericks

Attachments