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# The Federal Aviation Administration Rulemaking and Federal Advisory Committees Manual

Approval: \_\_\_\_\_  
 Executive Director, Office of Rulemaking


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| <b>Revision History</b>  |                       |
|--|-----------------------|
| <b>Description of Change</b>   | <b>Effective Date</b> |
| Extensive edits to the Committee Manual as it relates to ARAC and other FAA Federal advisory committees. Manual revised to address the process for all FAA Federal advisory committees and to align with DOT Order 1120.3D, dated July 6, 2022. Removed reference to ARAC process, which will become job aids. Consolidated the separate Appendices for ARCs and ARAC into a single section. Changed the name of the Committee Manual. | 2024                  |


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## **1.0 ACRONYMS**

While acronym use is minimized to make the document easier to read, the following acronyms are used frequently throughout.

|      |   |
|------|---|
| AGC  | Office of the Chief Counsel               |
| AOA  | FAA Administrator                         |
| APA  | Administrative Procedures Act             |
| APO  | Office of Aviation Policy and Plans       |
| ARC  | Aviation Rulemaking Committee             |
| ARM  | Office of Rulemaking                      |
| CMO  | Committee Management Officer              |
| DFO  | Designated Federal Officer                |
| DOT  | Department of Transportation              |
| FAA  | Federal Aviation Administration           |
| FAC  | Federal Advisory Committee                |
| FACA | Federal Advisory Committee Act            |
| FOIA | Freedom of Information Act                |
| OPR  | Office of Primary Responsibility          |
| OST  | Office of the Secretary of Transportation |
| RMC  | Rulemaking Management Council             |
| S-1  | U.S. Secretary of Transportation          |

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## PART I: INTRODUCTION

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### 1.0 PURPOSE

This manual describes the processes and procedures for the Federal Aviation Administration (FAA) Aviation Rulemaking Committees (ARC) and Federal Advisory Committees (FAC).<sup>1</sup> The Office of Rulemaking (ARM) provides guidance to various offices across the agency, staff, and committee members on the governance, establishment, and management of committees.

For questions related to the manual, please email [9-avs-awa-faa-committees-team@faa.gov](mailto:9-avs-awa-faa-committees-team@faa.gov).

### 2.0 RULEMAKING AND ADVISORY COMMITTEES

The FAA manages and provides oversight for the following two types of:

An **Aviation Rulemaking Committee (ARC)** is unique to the FAA and authorized under Title 49 of the United States Code (49 U.S.C.) section 106(p)(5). It is exempt from the requirements of the [Federal Advisory Committee Act \(FACA\)](#). The FAA must adhere to the Administrative Procedure Act (APA) requirements if the activities affect a rulemaking project.


A **Federal Advisory Committee (FAC)** is defined by the [FACA](#) authorized under Title 5 U.S.C. §§ 1001 *et seq* as any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup, that is established or utilized by the Federal Government to obtain advice or recommendations and is not composed solely of permanent full-time or part-time Federal officers or employees.

The FAA uses these committees when an Office of Primary Responsibility (OPR) seeks advice and recommendations from industry and the public on an issue that could result in policy or regulatory changes. To determine which committee is the most appropriate, offices may consult with ARM, and/or use the following descriptions to determine which committee type may be appropriate to proceed with

**ARC:** An *Aviation Rulemaking Committee* provides the FAA with information, advice, and recommendations on matters that could result solely in rulemaking. An ARC is not subject to the

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<sup>1</sup> This manual does not address the process for an aerospace rulemaking committee, as the U.S. Secretary of Transportation has the sole authority to establish an aerospace rulemaking committee. However, the procedures outlined for an aviation rulemaking committee may be applicable for establishing and managing an aerospace rulemaking committee.

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FACA requirements and is, therefore, more flexible. The FAA Administrator (AOA) has the sole authority to establish and task an ARC. It is formed on an ad hoc basis, for a specific purpose, with a limited duration. (See Part II, ARC) for further information.

Reasons to consider an ARC:

- The FAA is seeking recommendations or advice on a matter that may result in rulemaking or in response to a rulemaking.
- The FAA is seeking recommendations or advice on a matter that is time sensitive.
- The FAA has a specific membership composition it wants based on the technical subject being considered; and/or
- Requires involvement from several FAA offices.


**FAC:** A formal standing Federal Advisory Committee provides the FAA with information, advice, and/or recommendations and is subject to the requirements of the Federal Advisory Committee Act (FACA). An advisory committee that is not required by statute or Presidential directive may be established only when it is essential to the conduct of agency business and, therefore, in the public interest, and when the advice to be obtained is not already available through another advisory committee or source within the Federal Government. There are three different types of FACAs that can be established:

- *Presidential Authority: By Executive order of the President or presidential directive.*
- *Statutory Authority: Required by law (statue) where the Congress establishes the advisory committee or directs the agency to establish it (non-discretionary).*
- *Discretionary (Agency Authority): By an agency under general authority of Title 5 of the United States Code (USC) or under the agencies specific authorizing statue.*

Reasons for deciding that an advisory committee is needed may include whether:

- Directive through presidential authority or statue.
- Deliberations will result in the creation or elimination of (or change in) regulations, policies, or guidelines affecting agency business.
- Recommendations will result in significant improvements in service or reductions in cost.




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- Recommendations will provide an important additional perspective or viewpoint affecting agency operations.

## **2.1 MAJOR DIFFERENCES BETWEEN ARC AND FAC**

**TABLE 1.0**

| <b>AVIATION RULEMAKING COMMITTEE (ARC)<br/>OR<br/>FEDERAL ADVISORY COMMITTEE (FACA)</b> |   |   |
|---|---|---|
| <b>SUBJECT</b>  | <b>AVIATION RULEMAKING COMMITTEE</b>  | <b>FEDERAL ADVISORY COMMITTEE</b>   |
| <b>Legal Authority</b>  | 49 U.S.C., section 106(p)(5)  | 5 U.S.C., §§1001 <i>et seq.</i>   |
| <b>FACA</b>   | Not applicable.   | Must comply.  |
| <b>Federal Register</b>   | No requirement.   | Meeting notices of advisory committee meetings and newly established/renewal of committee charters must be published in the Federal Register.<br><br>Meeting notices should be published 15 calendar days prior to an advisory committee meeting. Note—There are some circumstances where a meeting notice may be submitted less than 15 calendar days, providing that the reasons for doing so are included in the meeting notice published in the Federal Register. |
| <b>Advisory Body</b>  | A standalone group that governs itself.   | The FAA establishes, manages, or controls the group, and appoints a Designated Federal Officer as the approving official. In addition, a chairperson is designated as a presiding officer of the FAC; the chairperson role is not restricted to Federal employees.  |
| <b>Membership</b>   | Comprised of subject matter experts representing membership categories such as aviation/aerospace stakeholders, academia, the public and advocacy groups. | Membership of the advisory committee must be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee. FACA requires a Membership Balanced Plan (MBP) for discretionary   |

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|                                   | <p>Not required to publish a solicitation. FAA identifies stakeholder groups/organizations to serve on committee.</p> <p>The ARC may also include observers from other Federal government agencies and foreign civil aviation authorities.</p> | <p>committees and recommends an MBP for non-discretionary committees.</p> <p>Committee members may have different types of expertise and may be appointed in the following categories: Representative, Special Government Employee, and Regular Government Employee.</p> <p>Solicit nominations for advisory committee membership in the Federal Register. May use the FAA website to solicit nominations for subcommittee(s) or working group(s).</p> |
| <b>Charter</b>                    | <p>Each ARC has its own charter, which is limited in scope and time to address issues. The charter typically expires 24 months after the effective date.</p> <p>AOA approves and signs the charter.</p>  | <p>Each advisory committee must have a charter. Charters expire every two years unless specified by legislation<sup>2</sup> and may be renewed if needed.</p> <p>The Secretary of Transportation and General Services Administration must approve the establishment or renewal of a charter. AOA has the authority to sign advisory committee charters, as appropriate.</p>  |
| <b>Chair</b>                      | <p>Industry and the FAA serve as Co-Chairs.</p>  | <p>In most cases, an external stakeholder member serves as the Chair.</p>  |
| <b>Designated Federal Officer</b> | <p>Not applicable.</p>   | <p>The FAA serves as the Designated Federal Officer (DFO).<sup>3</sup> This is usually a full-time or permanent part-time employee, appointed in accordance with agency procedures, will serve as the DFO (or Designee).</p>   |

<sup>2</sup> If legislation provides for a longer than two-year duration, consult the current version of DOT Order 1120 to ensure consistency with any duration requirements within that policy.

<sup>333</sup> The DFO may delegate its responsibilities to an FAA Representative for subcommittees and working groups.



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| <b>FAA Participation</b>     | The FAA provides guidance as a non-member.  | FAA representation is required at all advisory committee meetings, including subcommittees, and working groups. The FAA provides guidance as a non-member, unless stated in the charter.  |
| <b>Meetings</b>              | ARC meetings are <i>closed</i> to the public unless the ARC decides otherwise.  | All advisory committee meetings are <i>open</i> to the public unless closed in accordance with 5 U.S.C. 552b. Open public meetings are not required for subcommittees and working groups.   |
| <b>Public Documents</b>      | The FAA is not required to make ARC records publicly available. ARC records in the FAA's possession can be obtained through the Freedom of Information Act (FOIA), 5 U.S.C. 552, subject to applicable FOIA exemptions. | Except for content subject to a FOIA exemption, the FAA publishes on its website all records, transcripts, minutes, appendixes, working papers, drafts, studies, agendas, and other documents that were made available to or prepared for or by advisory committees.        |
| <b>Meeting Minutes</b>       | The FAA is not required to record or maintain minutes. ARC members are encouraged to take notes.  | FAA is required to record and maintain minutes for advisory committee meetings. The Designated Federal Officer must ensure that minutes are certified within 90 calendar days of the meeting.<br><br>Meeting minutes are not required for subcommittees and working groups. |
| <b>Deliverables</b>          | Recommendation Report.  | Recommendation Report.  |
| <b>Recommendation Report</b> | Submitted to the sponsoring office of the ARC and ARM. The sponsor will determine when the report may be released and made public.  | Advisory committee must deliberate and vote on recommendation reports at a public meeting prior to submission to the FAA. Recommendation reports are posted to the FAA Committee website.   |

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## **PART II: AVIATION RULEMAKING COMMITTEE (ARC)**

### **1.1 HISTORY OF THE ARC**

Title 49 of the United States Code (49 U.S.C.) section 106(p)(5) authorizes AOA to establish aviation rulemaking committees that are exempt from FACA requirements.

### **1.2 OBJECTIVES OF THE ARC**

An ARC functions solely in an advisory capacity. This allows the FAA to work with industry and the public to improve the development of the FAA’s regulations. Exchanging ideas among members through the ARC process gives the FAA additional opportunities to obtain first-hand information and insight from those parties most affected by existing and proposed regulations and other regulatory information.

Non-government representatives serve without government compensation and bear all costs related to their participation on an ARC, except in cases when the FAA finds good cause to provide for travel and lodging.<sup>4</sup> The charter includes the ARC’s scope, specific deadlines, expected deliverables, and membership composition. An ARC may not work on issues without the FAA’s direction. ARC members may include representatives from the aviation industry, commercial space industry, technical experts, public interest or passenger rights groups, academia, advocacy groups, and non-Federal government agencies.


### **1.3 COMPLYING WITH THE ADMINISTRATIVE PROCEDURE ACT REQUIREMENTS**

An ARC must adhere to the Administrative Procedures Act (APA) requirements if the ARC’s activities affect an existing rulemaking project. Depending upon the rulemaking stage, the ARC recommendations may be subject to additional requirements in order for the FAA to satisfy the APA.

If the ARC recommendations are the basis for an Advanced Notice of Proposed Rulemaking (ANPRM), Notice of Proposed Rulemaking (NPRM), or Supplemental Notice of Proposed Rulemaking (SNPRM), there are no additional public notice requirements for the

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<sup>4</sup> The FAA may consider covering travel expenses for invited individuals not representing an association, company, or organization. This includes individuals from academia, such as professors, but not those in leadership positions (i.e., deans or presidents).

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recommendation report. The recommendations should be explicitly discussed in the preamble of these documents.

If the ARC is providing recommendations that respond to public comments submitted in response to an existing rulemaking, the FAA must allow the public the opportunity to comment on the ARC’s recommendations. Further,

- If the FAA receives the ARC recommendations while the comment period is open, the ARC Facilitator works with the assigned rulemaking analyst to post the recommendations in the docket.<sup>5</sup>
- If the ARC submits its recommendations after the comment period closes, the FAA may consider reopening the comment period to allow for public comment on the recommendations. This will help maintain transparency and comply with the ex parte communication guidance issued by the Department of Transportation.<sup>6</sup>

The comment period on ARC recommendations should be at least 30 calendar days unless otherwise justified. The agency has the option of holding a public meeting on the recommendations in addition to the reopening of the comment period. The OPR should consult with the Office of the Chief Counsel and ARM early in the process to help determine the necessary steps.

## **1.4 ARC STRUCTURE**


Depending on the ARC’s scope, the membership may be comprised of individuals representing the aviation industry, the aerospace industry, academia, and public interest groups. The ARC will develop and submit a recommendation report that addresses the charter’s tasks. FAA representatives provide guidance as the ARC addresses the tasks. *(See Chapter 3.0, ARC Process of this part for more guidance and Appendix F for the ARC’s organizational structure).*

ARC participants include:

- Industry Co-Chair(s);
- FAA Co-Chair;
- Members;

<sup>5</sup> The ARC Facilitator is an analyst from the ARM Regulatory Planning Branch (see Section 2.3).

<sup>6</sup> <https://www.transportation.gov/regulations/guidance-ex-parte-communications>

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- Observers/Non-Voting Members (optional);<sup>7</sup>
- Subject Matter Experts (optional);<sup>8</sup> and
- FAA Representative(s).<sup>9</sup>


(See Chapter 2.0, Roles, and Responsibilities for more guidance.)

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<sup>7</sup> This may include representatives from other U.S. Federal government agencies and foreign civil aviation authorities.

<sup>8</sup> The Co-chairs may invite a SME to a meeting for the purpose of sharing information that may educate and inform the ARC as they develop recommendations.

<sup>9</sup> FAA Representatives may include OPR subject matter experts, ARM rulemaking analyst, attorney, and economist to provide guidance to the ARC.

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## **Chapter 2.0: Roles And Responsibilities**

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### **2.1 OFFICE OF PRIMARY RESPONSIBILITY /SPONSOR**

The OPR should:

- Develop the draft ARC charter in coordination with the ARC Facilitator (see 2.2 below).
- Ensure the FAA agrees on the basic policy direction before issuing the charter. For example, consider whether the FAA wants the ARC to recommend a regulatory solution or guidance documents.
- Select the FAA Co-Chair, Industry Co-Chair, and identify FAA Representatives that have equities in the issue.<sup>10</sup>
- Work with the FAA Co-chair to select members for the ARC by consulting with other agency offices that have a stake in the issue and senior management before making the final selections.
- Make sure the FAA Representatives assigned to the ARC are sufficiently equipped to participate effectively in the ARC.
- Request to use ARM’s regulatory support contract on a reimbursable basis, if contract support is required.
- Ensure the ARC recommendation report is evaluated and a decision on whether or not to take action on the recommendations is rendered in a timely manner and with complete justification.
- Determine the appropriate time to post the recommendation report to the [Committee Website](#) and notify ARM.


### **2.2 ARC FACILITATOR**

The ARC Facilitator is an analyst from the ARM Regulatory Planning Branch. When creating the ARC, the ARC Facilitator:

- Meets with the OPR to provide an overview of the ARC process;

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<sup>10</sup> ARCs may have more than one industry co-chair.

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- Ensures the charter contains clearly defined deliverables and a schedule;
- Assists the OPR with finalizing the charter and coordinating the AOA memo;
- Informs and sends the signed charter to the OPR; and
- Presents the ARC 101 Overview at the ARC’s first meeting.<sup>11</sup>

Throughout the duration of the ARC, the ARC Facilitator:

- Provides support and advice to the ARC, the FAA Co-Chair, and the Industry Co-Chair, as requested. This may include providing general guidance to the ARC regarding agency rulemaking processes (e.g., ex parte discussions, disposition of comments, etc.);<sup>12</sup>
- Keeps ARM management up to date on ARC developments, such as expected deliverables and any problems that have arisen;
- Works with the OPR when deciding to extend or amend the ARC charter;
- Serves as a conduit to other support offices involved in rulemaking when their expertise is required to answer questions or resolve issues;
- Arranges for public meetings or coordinates with the assigned rulemaking analyst to reopen the comment period (as appropriate) in order to meet APA requirements when the ARC is developing recommendations in response to an FAA-issued rulemaking document. The ARC Facilitator should work closely with the AGC as early as possible to ensure the APA requirements are met; and
- Uses the optional Committee Checklist as a guide throughout the duration of an ARC.


After the ARC submits the recommendation report to the FAA, the ARC Facilitator should follow the steps in Chapter 3.11 of this part.

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<sup>11</sup> The ARC Facilitator should ask the FAA Co-Chair if they would like ARM to present an overview of the rulemaking process at the first or future meeting.

<sup>12</sup> The ARC Facilitator should work with AGC as early as possible if specific ex parte issues or legal questions come up in the ARC.




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## **2.3 FAA CO-CHAIR**

The FAA Co-Chair:

- Works with the OPR/Sponsor to select members for the ARC by consulting with other agency offices with a stake in the issue and senior management (i.e., Executive Director/Director) before making the final selections.
- Provides membership roster and meeting schedule to the ARC Facilitator.
- Ensures the ARC has a clear understanding of the FAA task assignment and completion date.
- Provides relevant background material to the ARC members, including relevant petitions for rulemaking and exemption.
- Manages meeting logistics with the Industry Co-Chair (schedule meetings, obtain meeting room, etc.).
- Ensures that ground rules are adopted and understood by the ARC members.
- Shares the “rules of engagement” as well as any other appropriate guidance with the ARC members at the initial meeting (See [Appendix E: Anti-Trust Guidelines for Committees](#) for more guidance.).
- Provides guidance and respond to questions posed by ARC members.
- Keeps relevant FAA management up-to-date on the ARC developments.
- Unless specifically tasked in the charter, ensures the recommendation report is not in the form of a rulemaking document (such as an NPRM or final rule). However, it is acceptable for the ARC to include specific rule language and supporting rationale if requested by the OPR.
- Works through the ARC Facilitator to obtain economic, legal, and contractor support when required.
- Coordinates with the ARC Facilitator to determine whether to extend or amend the ARC charter. Discusses if any amendments to the ARC charter need to be made. If there is a change in scope, the charter will need to go to the Rulemaking Management Council.


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- Works with Industry Co-chair(s) to ensure the recommendation report addresses the charter tasks and documents majority and dissenting positions.

## **2.4 INDUSTRY CO-CHAIR**

The Industry Co-Chair:

- Ensures the ARC has a clear understanding of the FAA task assignment and completion date.
- Works with the FAA Co-Chair to ensure that ground rules are adopted and understood by the ARC members.
- Determines jointly with the FAA Co-Chair and, in consultation with the ARC, tentative meeting dates and locations in advance to reduce work conflicts and costs.
- Drafts agendas and conduct meetings.
- Reviews background material relevant to the task, including relevant petitions for rulemakings and exemptions.
- Determines if notes should be taken.
- Designates assignments to working groups, if appropriate, and disbands the working groups when the assignment is complete.
- Ensures motions are voted on and recorded, and all decisions and consensus are documented at each meeting, including the majority and dissenting positions.
- Promote collaboration and consider all elements contributed by participants.
- Resolves conflict.
- Ensures the recommendation report addresses the charter tasks and documents majority and dissenting positions.

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## **2.5 ARC MEMBERS**

ARC members:

- Actively represents the organization or industry by contributing representative aviation knowledge and subject-matter expertise.
- Attends meetings on a regular and consistent basis.
- Advises on matters of importance to the aviation industry and traveling public.
- Participates in working groups, as necessary.
- Have the authority to represent the organization or industry's viewpoints by ensuring constituents are kept apprised and come to the discussions with the necessary knowledge, expertise and input throughout the process.
- Contributes to the recommendation report, including developing recommendations and drafting the report.


ARM members must not:

- Share drafts of the recommendation report and any other documents provided at an ARC meeting for any reason whatsoever, including, but not limited to, for the purpose of obtaining constituent input or feedback. This prohibition covers posting anything on an organizational or individual website or otherwise publicly distributing any ARC-related information.
- Share the final recommendation report until the FAA makes it publicly available.

## **2.6 ARC OBSERVERS/NON-VOTING MEMBERS**

ARC Observers/Non-voting Members:

- Contribute representative and relevant aviation or aerospace knowledge and expertise.
- Attend meetings on a regular and consistent basis.
- Advise on matters of importance to the international aviation or aerospace industries and traveling public.

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- Participate in task groups, as necessary.
- Coordinate with relevant constituents in the aviation sector.
- Contribute to the recommendation report via subject matter expertise.
- Must not post draft documents on an organization’s website or otherwise publicly distribute any draft materials to obtain general input or feedback.
- Must not share the recommendation report until the FAA makes it publicly available.

## **2.7 FAA REPRESENTATIVE(S)**


FAA representatives:

- Advise the Committee on FAA position and provide technical or process guidance.
- Advise on matters of importance to the FAA in reference to the subject and tasks.
- Contribute representative aviation knowledge and expertise.
- Attend meetings on a regular and consistent basis.
- Participate in task groups, as necessary.
- Keep FAA management up-to-date on the ARC developments.

### **2.7.1 THE FAA ATTORNEY (OPTIONAL)**

The FAA attorney may:

- Inform the ARC, via the FAA Co-Chair, of any opinions, concerns, and objections regarding the ARC’s activities when warranted.
- Provide general guidance to the ARC, as needed, regarding agency rulemaking processes (e.g., APA requirements, ex parte communications, legal questions, etc.).
- Provide the FAA Co-Chair with a copy of all legal comments and concerns.

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## **2.7.2 THE FAA ECONOMIST (OPTIONAL)**

The FAA economist may:

- Advise on the economic consequences of actions considered by the ARC.
- Provide the FAA Co-Chair with a copy of all economic comments and concerns.
- Consult with the Office of Policy and Plans management, as appropriate, to ensure a unified FAA economic position is presented.

## **2.8 U.S. GOVERNMENT AGENCY REPRESENTATIVE(S)**


The FAA may invite other U.S. Government agencies to participate on an ARC as an observer. An observer may:

- Advise on matters of importance to the U.S. Government agency in reference to the subject and tasks.
- Contribute representative aviation knowledge and expertise.
- Attend meetings on a regular and consistent basis.
- Participate in task groups, as necessary.
- Keep management up-to-date on the ARC developments.

## **2.9 COMMITTEES TEAM**

The Committees Team in the ARM Regulatory Planning Branch:

- Serves as the subject matter expert on the committee process.
- Maintains the official FAA ARC records.
- Maintains the [Committees Website](#).
- Maintains the Committee Manual and all associated templates.

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## Chapter 3.0: ARC PROCESS

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### 3.1 CREATING AN ARC

An OPR must follow the steps described below to create an ARC.

1. The OPR must complete a Committee Request (CR) Form within the Rulemaking Information Management System (RIMS) and prepare an ARC charter using the template available in RIMS. For assistance with completing the required documents, the OPR may contact the ARC Committees Team.

The CR Form provides basic information, such as the OPR and name of the proposed ARC. The OPR’s Director/Executive Director (or designee) must approve the CR Form and charter prior to submission to the ARM RMC Coordinator. The charter describes the objectives, purpose, and scope of the proposed ARC.


2. The OPR submits both the CR Form and draft ARC charter to the ARM RMC Coordinator for the RMC’s consideration. If approved, the ARM RMC Coordinator informs the ARM-310 Committees Team. If the RMC does not approve the request to create a new ARC, the OPR must decide either to make revisions based on the comments or to not proceed with the proposed action.
3. If Council *approves the CR Form and draft ARC charter as submitted*, then ARM finalizes and routes the charter for AOA for final approval and signature.

If Council *approves the charter with revisions*, then the OPR, working with ARM, revises the draft charter, incorporating any comments from the RMC, routes it for concurrence, and submits it to ARM for AOA approval and signature. The package must be coordinated with the Office of the Chief Counsel prior to submission to ADA/AOA.

4. When ARM receives the signed ARC charter, the Committees Team sends a copy to the OPR and consult with the OPR on the timing to post the ARC charter to the [Committees Website](#).<sup>13</sup>
5. Depending on the sensitive nature of the topic of the ARC, the Office of Communications may need to coordinate messaging and determine appropriate release of the charter.

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<sup>13</sup> We do not publish the ARC charter in the *Federal Register*.

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### **3.2 MEMBERSHIP**

An ARC is comprised of individuals representing the aviation and aerospace community, including academia and public interest and advocacy groups. While OPR’s should not contact proposed members until AOA has signed the charter, they should begin identifying and vetting proposed members while the charter is awaiting AOA approval. Members are selected based on their familiarity with the subject and regulatory compliance. Membership must be balanced in viewpoints, interests, and knowledge of the committee’s objectives, and the scope is limited to promote discussion.

Membership may be limited to specific representatives of companies or specific organizations that would provide the expertise needed. If the issue has an international or harmonization element to it, then representatives from foreign civil aviation authorities may be invited as an Observer. ARM will ensure each ARC complies with the most current Office of Management and Budget guidance on the appointment of lobbyists to Federal advisory committees, boards, and commissions.

#### **Selecting and Informing Members**


The OPR can begin selecting potential member organizations during the coordination of an ARC charter. The OPR should allow other FAA offices that have a stake in the issue and senior management an opportunity to vet candidates for ARC membership before making the final selections. After the ARC charter is signed, the OPR contacts the member organizations to inform them of the selection and requests a nomination for the ARC.

Members must have at a minimum:

- Relevant expertise;
- Position with decision-making ability in the organization;
- Ability to work constructively in a group environment; and
- Ability and willingness to commit to long-term participation on the committee.

The OPR provides the membership list to ARM, which includes each member’s name and organization or affiliation. ARM maintains the membership list with other official documents for the ARC.

The OPR may, but is not required to, solicit ARC members through a public notice. If the decision is made to seek members through a public notice, the FAA should include membership

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criteria for the ARC in the notice. This minimizes the possibility of receiving a large number of requests for membership and provides a basis for making objective selections.

When the OPR selects an Industry Co-Chair to lead an ARC, the FAA Co-Chair informs the Industry Co-Chair of their selection. (The ARC Facilitator can provide the FAA Co-Chair a template to use to inform the Industry Co-Chair.)

In preparation for the ARC kick-off meeting, the FAA Co-Chair sends an invitation to proposed members. The invitation should include:

- General information about the ARC’s purpose;
- A copy of the charter;
- Information about the Co-Chairs ; and
- Details about the first meeting, including location, date(s), and time (if applicable).

For the roles and responsibilities of each member, refer to Chapter 2.0, Roles and Responsibilities of this part for more guidance.

**3.3 CONTRACTOR SUPPORT**

If contractor support is necessary, the FAA office funding the contractor support should begin putting the contract in place so that when an ARC meets for the first time, the contractor is on board.

**3.4 EXTENDING OR AMENDING THE CHARTER**


In the event an ARC needs more time to complete the tasking or requests a change in scope to the tasking, and the OPR agrees, the FAA can extend or amend the charter. To determine which one is appropriate, use the following descriptions:

**Extend** - when the charter is still active, and there is no change in scope, but more time is needed to complete the tasking.

**Amend** - when there is a change in scope to the charter.

If a charter expires before the ARC completes its work, the ARC must stop working and the OPR must submit a new Committee Request Form to RMC.



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### **3.4.1 Extend**

**Step 1:** The FAA Co-Chair consults with FAA management about extending an ARC charter because the members need more time, or the FAA has assigned additional tasks within the charter’s scope. This process to extend should be initiated at least 90 days before the expiration date of the charter.

**Step 2:** The ARC Facilitator, working with the FAA Co-Chair, prepares the transmittal memo to AOA requesting an extension to the charter and the draft extension charter. The memo must specify the reason(s) for the extension and the amount of additional time needed to complete the task.

**Step 3:** The ARC Facilitator coordinates the memo and the draft charter extension for review, concurrence, and issuance.

**Step 4:** Once the AOA issues the charter extension, the ARC Facilitator sends it to the OPR and posts the charter extension to the [Committees Website](#).

### **3.4.2 Amend**


**Step 1:** The FAA Co-Chair consults with the ARC Sponsor about amending the ARC charter because of a change in scope. If the Sponsor agrees, the OPR completes and submits an Appendix to the Committee Request Form with the draft amended ARC charter to the RMC for approval. (See [Section 3.2, Submitting and Approving the Committee Request Form](#), for more guidance.)

**Step 2:** After RMC approves the request to amend the charter, the ARC Facilitator prepares and coordinates the memo and the draft amended charter for AOA approval.

**Step 3:** Once AOA issues the amended charter, the ARC Facilitator sends it to the OPR and posts the amended charter to the [Committees Website](#).

## **3.5 ARC MEETINGS**

ARC meetings are closed to the public and may be held at any location that is reasonable and accessible to the members and agreed to by the FAA. Locations may include Federal Buildings, hotel conference rooms, or the conference rooms of ARC members. For meetings held outside of the United States, follow the agency’s guidance for international meetings and travel, and inform the ARM Executive Director.

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While meeting minutes are not required, the FAA recommends ARC members capture (in an appropriate format) the discussions, any consensus, majority and dissenting positions, and, if requested, suggested rule text. This will help the ARC draft the recommendation report.

**3.5.1 Inviting a Subject Matter Expert to a Meeting**

From time to time, an ARC may need additional information. An ARC member, with approval from the Co-Chairs, may invite persons other than ARC members to speak directly to the ARC, participate in its discussions, and act in a consultant capacity. These invited persons are not members of the ARC and may not participate in reaching consensus.

**3.6 CREATING A TEMPORARY WORKING GROUP**

If necessary, the Co-Chairs may establish a working group, which is a temporary subgroup within an ARC, to solve individual issues that arise during discussions and meetings. The Industry Co-Chair identifies the assignments for the working group, and the ARC members volunteer to be part of the working group. Non-ARC members may participate as subject matter experts upon approval of the Co-Chairs. The Industry Co-Chair shall ensure tasks assigned to a working group remain within the scope of the ARC charter. Each working group is led by an FAA and Industry Co-Lead.


A working group should:

- Research the assignment;
- Document the findings;
- Brief the ARC; and
- Disband when the assignment(s) is complete.

**3.7 DEVELOPING THE RECOMMENDATION REPORT**

A recommendation report describes the outcome of the research and analysis of the tasking. It contains the specific details, including:

- Summary;
- Background information;

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- Research information;
- Working group assignments and findings;
- Issues as a result of the research and working group findings;
- Consensus, including majority and dissenting opinions; and
- Recommendations.

The Co-Chairs lead the ARC in developing the recommendation report. The FAA Co-Chair should advise on its position and provide technical or process guidance. If an ARC is considering recommendations the FAA may not accept, the FAA Co-Chair should inform the ARC and explain why those positions would not likely be supported. The ARC may include the FAA’s explanation in the final recommendation report.


When developing the recommendation report, the ARC should:

- Ensure the recommendations presented in the final report are within the scope of the charter and associated taskings;
- Research and analyze information they have collected;
- Ensure the issues and recommendations presented in the final report represent the viewpoints of the stakeholder groups represented on the ARC;
- Identify any discussions to include in the recommendation report, including majority positions, dissenting positions, Observers positions (if applicable), working group findings, and areas in which the ARC is unable to reach consensus. (See [Appendix C: Consensus](#) for more guidance); and
- Mark any draft documents as “DRAFT WORKING MATERIAL—NOT FOR PUBLIC RELEASE.”

### **3.8 FINALIZING THE RECOMMENDATION REPORT**

An ARC should strive to reach consensus on the final recommendation report in its entirety. After the ARC reaches consensus, the Co-Chairs ensure:

- Taskings from the charter are addressed, and the recommendation report fulfills the direction given by the FAA;

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- Decisions are reasonable, well supported, justified, and appropriate to the tasking;
- Positions are clearly stated;
  
- Majority and dissenting positions are documented if a consensus was not reached;
  
- The document is written in plain language, which ensures the reader can:
  - Find what they need;
  - Understand what they find; and
  - Use what they find to meet their needs;
  
- The report is Section 508<sup>14</sup> compliant to ensure accessibility and usability by individuals with disabilities.

### **3.9 SUBMITTING THE RECOMMENDATION REPORT**

The Industry Co-Chair submits the final recommendation report to the ARC sponsor and the ARM Executive Director. The work of the ARC is considered complete upon submission of the recommendation report, but the ARC is not officially closed until the charter expires or as set forth in Section 3.12.

### **3.10 ACKNOWLEDGING THE RECOMMENDATION REPORT**


After the ARC Sponsor receives the recommendation report, the OPR, with assistance from the ARC Facilitator, prepares an acknowledgment letter thanking the ARC for its efforts and the recommendation report. The letter is reviewed and concurred with by the OPR and ARM and is signed by the ARC Sponsor. The OPR sends the signed letter to the industry co-chair and a copy of the signed letter to the ARC Facilitator.

### **3.11 FAA ACTION**

Once the OPR receives the recommendation report, the OPR consults with management and other affected lines of business about how to proceed and when to release the recommendation report. The FAA should inform the ARC of the plan of action as a result of the recommendation

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<sup>14</sup>See <https://www.govinfo.gov/content/pkg/USCODE-2011-title29/html/USCODE-2011-title29-chap16-subchapV-sec794d.htm>

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report. If the ARC has sunset, as a best practice, the FAA should post updates to the committees website.

If the FAA has questions after reviewing the recommendation report, the FAA can contact the ARC for clarification if the charter remains in effect. If the ARC charter has expired, the FAA can only ask or task the ARC to provide new information if it establishes a new ARC charter. As a best practice, recommendation reports should be submitted at least 2-3 months before the ARC Charter expires. This will allow the FAA to seek additional information, if necessary, from the ARC before the charter expires.

### **3.12 CLOSING THE ARC**

The ARC Facilitator closes the ARC by completing the following steps:

- Update the milestones in ARM’s record management system and close the project.
- Post all relevant documents to the [Committees Website](#). ARM posts the recommendation report once the ARC Sponsor approves the release of it. A best practice is to post the report to the FAA Committee Website within 90 days of receipt.
- File and upload the following documents into ARM’s record management system for official recordkeeping:
  - CR Form and Appendix, if applicable;
  - Charter, including extensions, if applicable;
  - Membership list;
  - Recommendation Report including any dissenting opinions, if applicable;
  - FAA Acknowledgement letter; and
  - Other related materials.
- Use the optional Committee Checklist as a guide to ensure all required documentation was met.

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## Part III: FEDERAL ADVISORY COMMITTEES<sup>15</sup>

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### Chapter 1.0: GENERAL INFORMATION

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#### 1.1 FACA

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FACA (5 U.S.C., §§ 1001*et seq.*) governs the FAA’s Federal Advisory Committees (FAC) and states the term "advisory committee" means a committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof (hereafter in this paragraph referred to as "committee") that is established or utilized to obtain advice or recommendations for the President or one or more agencies or officers of the Federal Government and that is—

- established by statute or reorganization plan;
- established or utilized by the President; or
- established or utilized by one or more agencies.


FACA also includes requirements on FAC procedures, meetings, publication of notices in the *Federal Register*, annual reports, Federal officer or employee attendance, and recordkeeping requirements.

Unless the renewal of a committee charter is justified under the FACA, the charter automatically expires after a two-year period (or as otherwise provided by law). The Secretary of Transportation and the General Services Administration (GSA) must approve each new charter and charter renewal.<sup>16</sup>

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<sup>15</sup> The Committee Manual speaks to FACA requirements set forth by the General Services Administration and the DOT Order on Committee Management Policy and Procedures. It does not describe procedures on how to manage an individual committee, such as how an office develops or approves new tasks for their Federal advisory committee. The expectation is each office would create a job aid or something equivalent to outline internal office procedures.

<sup>16</sup> GSA serves as the Secretariat and has the responsibility for overseeing FACA.

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## 1.2 ESTABLISHING A FAC

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### 1.2.1 Sources of Authority

FACA identifies four sources of authority for establishing a FAC:

- *Required by statute.* By law where the Congress establishes a FAC, or specifically directs the President or an agency to establish it (*non-discretionary*);
- *Presidential authority.* By Executive order of the President or other Presidential directive (*non-discretionary*);
- *Authorized by statute.* By law where the Congress authorizes, but does not direct, the President or an agency to establish it (*discretionary*); or
- *Agency authority.* By an agency under general authority in Title 5 of the United States Code or under other general agency-authorizing statutes (*discretionary*).

A discretionary FAC is any advisory committee that is established under the authority of an agency head or authorized by statute. A FAC referenced in general (non-specific) authorizing language or Congressional committee report language is discretionary, and its establishment or termination is within the legal discretion of an agency head.


A non-discretionary FAC is any advisory committee required by statute or Presidential directive/authority and is generally identified specifically in a statute by name, purpose, or functions, and its establishment or termination is beyond the legal discretion of an agency head.

### 1.2.2 Required Documents

To establish or renew a FAC, the following documents are required.

#### **Charter**

Regardless of whether the President mandates a FAC (Presidential), is required by statute (statutory), is authorized by statute, or is created under agency authority (discretionary), a formal charter must be prepared and filed before the FAC can meet or take any action. The charter specifies (i) the FAC's mission or charge, (ii) the FAC members' specific duties, and (iii) the FAC's general operational characteristics. Transparency and clarity are the primary objectives in developing the charter.

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There are 15 statutory and 5 *recommended components* that should be incorporated into a charter. The charter should include all the statutorily required components, as well as five other recommended components that are not explicitly required at this time but improve the overall charter and provide valuable additional information for interested parties. The recommended components are denoted with an (\*) asterisk below.


1. *Committee’s Official Designation (Title).*
2. *Authority\*.*
3. *Objectives and Scope of Activities.*
4. *Description of Duties.*
5. *Agency or Official to Whom the Committee Reports*
6. *Agency Support Name.*
7. *Estimated Annual Operating Costs and Staff Years.*
8. *Designated Federal Officer\*.*
9. *Estimated Number and Frequency of Meetings.*
10. *Duration.*
11. *Termination.*
12. *Membership and Designation\*.*
13. *Subcommittees\*.*
14. *Recordkeeping\*.*
15. *Filing Date.*

GSA’s Federal Advisory Committee Management website provides guidance on how to draft a charter.<sup>17</sup>

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<sup>17</sup> See <https://www.gsa.gov/policy-regulations/policy/federal-advisory-committee-management/advice-and-guidance>.



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The Department’s Committee Management Officer (CMO) is responsible for filing the charter (see 3.7.11 for information on the CMO). The CMO must file the charter with:

- The standing committees of the Senate and the House of Representatives having legislative jurisdiction of the agency, the date of filing with which constitutes the official date of establishment for the advisory committee; and
- The Library of Congress.

The CMO also informs the Secretariat (GSA) of the filing date. Charter filing requirements for non-discretionary FACs are the same as those of discretionary FACs, except the date of establishment for a non-discretionary FAC established by a Presidential order or directive is the date the charter is filed with the Secretariat.

The FAC may not meet until the Department’s Committee Management Officer (CMO)<sup>18</sup> files the charter, which formally establishes a FAC.

### **Membership Balance Plan**

The FACA Membership Balance Plan is a stand-alone document that describes how the FAA intends to achieve balance in terms of the points of view represented and the functions to be performed by the FAC.<sup>19</sup> The Membership Balance Plan will ensure that, in the selection of members for the FAC, the FAA will consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions of the advisory committee. Any FAC requiring technical expertise should include persons with demonstrated professional or personal qualifications and experience relevant to the functions and tasks to be performed.


The OPR must review and, if necessary, update the Membership Balance Plan whenever a FAC is renewed and also when a FAC’s charter is amended.

### **Public Notification**

The FAA is required under FACA to provide notice to the public in the **Federal Register** when a discretionary FAC is established, renewed, or reestablished. For the establishment of a new discretionary FAC, the notice must describe the nature and purpose of the FAC and affirm that the FAC is necessary and in the public interest.

<sup>18</sup> The Secretary designates the CMO to implement the provisions of FACA on behalf of the Department.

<sup>19</sup> The Plan is required for discretionary FACs and recommended for non-discretionary FACs.

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Notices of establishment and reestablishment of a discretionary FAC must appear in the Federal Register at least 15 calendar days before the charter is filed with Congress, except that the Secretariat (GSA) may approve the charter in less than 15 calendar days when requested by the FAA for good cause. This requirement for advance notice does not apply to FAC renewals. For renewals, notices may be published concurrently with the filing of the charter.

### **1.2.3 Charter Approval Process**

When the FAA determines that a FAC should be established, the FAA should consult with the CMO.<sup>20</sup> The FAA must:

- Prepare a charter outlining the committee's mission and specific duties.
- Prepare an S-1 Action memo to the Secretary of Transportation from AOA recommending approval of the charter.
- Obtain the necessary internal FAA clearances.
- Transmit the charter package to OST for review and approval at least 90 calendar days prior to the desired establishment or charter's termination date, respectively.<sup>21</sup>
- Obtain AOA's signature on the charter.
- Publish a notice in the Federal Register announcing the establishment or renewal of the advisory committee 15 calendar days before the charter is filed for newly established discretionary committees.<sup>22</sup>
- Ensure the Department's CMO files the charter with Congress, which is the official date of establishment for the FAC.

A FAC may only begin operations upon the filing of the charter with Congress.<sup>23</sup>


The charter package should also include the draft Membership Balance Plan and Federal Register notice. Additionally, the FAA must submit a separate membership appointment package for the Secretary's approval. See [Section 1.3, FAC Membership](#) of this part for further information.

<sup>20</sup> The Secretary designates the CMO to implement the provisions of FACA on behalf of the Department.

<sup>21</sup> The Department's CMO will forward the charter to GSA's Committee Management Secretariat for final review.

<sup>22</sup> This applies to discretionary FACs only.

<sup>23</sup> A non-discretionary FAC established by a Presidential order or directive may begin operations upon filing the charter with the Secretariat.

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## **1.3 FAC MEMBERSHIP**

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The FAC charter addresses the committee size and membership composition. There are several ways to seek membership on an FAC.

- The FAA may issue a public notice to solicit members.
- The FAA may appoint individuals without notice.
- An individual or organization may submit a nomination.

### **1.3.1 Applying for Membership**

If an individual or organization is interested in becoming a FAC member and believes the interests of a stakeholder group is not represented by the current membership, they may petition the Designated Federal Officer (DFO) to become a member. The petition must:

- Indicate a desire to become a member;
- Include the nominee’s biography and resume;
- Explain why the individual or organization believes the current membership does not represent its interests; and
- Describe the expertise the individual or organization would bring to the FAC to enrich the committee process.


### **1.3.2 Membership Selection and Approval Process<sup>24</sup>**

When making selections, the FAA ensures the membership represents a broad cross-section of the aviation and aerospace industries, as well as the public. The FAA selects individuals to serve on a FAC to ensure the membership is fairly balanced in terms of knowledge, expertise, and points of view of those represented, and functions to be performed by the committee.

The FAA may consider the following factors as part of the selection and approval process.

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<sup>24</sup> For non-parent committee members, please follow the process agreed to by the Department and FAA.

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- Individual holds appropriate authority in the designated organization to speak for it, and the community or industry represented; and
- Individual represents a stakeholder or segment that would provide a balance in points of view regarding the functions and tasks to be performed by the FAC.

When an OPR has selected the recommended nominees for membership, the OPR must follow the process outlined by the Department of Transportation (DOT). This may include:

- Coordinating with the FAA Office of the Chief Counsel for the vetting of nominees. The FAA’s Ethics official will vet the nominee to determine their eligibility to serve on the advisory committee and whether they would serve either as a “representative” or a “special Government employee” (SGE). In general, SGEs are covered by regulations issued by the U.S. Office of Government Ethics (OGE) and certain conflict of interest statutes, while representatives are not subject to these ethics requirements.
- Preparing an action memo to the Secretary of Transportation or Deputy Secretary from the AOA recommending appointment of individuals to the FAC. The membership package should include:
  - The proposed membership list;
  - A biography of all nominees;
  - Draft appointment letters for all nominees;
  - A copy of the FAC Charter;
  - A copy of the Membership Balance Plan;
  - A current advisory committee roster (if applicable); and
  - A list of all individuals and organizations not selected for membership, if applicable.
- Obtain the necessary internal FAA clearances;
- Transmit the membership package to OST for review and approval by the required deadlines.
- Notify the appointed members upon the Secretary’s approval.

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When appointing subcommittee and working group members, the OPR must follow the process outlined by DOT.

## **1.4 PUBLIC MEETINGS**

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All FAC meetings are open to the public, except as provided under Section 10(d) of FACA, as implemented by Title 41 of the Code of Federal Regulations (41 CFR) § 101-6.10, the Government in the Sunshine Act (5 U.S.C. § 522b(c)), 41 CFR part 102-3, and DOT Order 1120.3D - Committee Management Policy and Procedures.<sup>25</sup> Each meeting will be held at a reasonable time, in a reasonably accessible place, in a room large enough to accommodate the members, staff, and reasonable number of interested members of the public. In addition to face-to-face meetings, public meetings may also be held virtually or hybrid.

### **Closed Meetings**

The FAA may close a FAC meeting or a portion of a FAC meeting when information to be discussed includes the following:

- Is classified or best kept secret in the interests of national defense or foreign policy.
- Discloses trade secrets or commercial or financial information obtained from a person that is privileged and confidential.

Section 552b, paragraph (c) of Title 5 of the U.S.C. on Open Meetings contains a more detailed list of when a Government agency may close a meeting. (See also 5 U.S.C. § 10(d) of FACA.)

### **1.4.1 Federal Register Notice Requirements**


#### **FACA Requirements**

FACA requires that the FAA publish a notice of an upcoming FAC meeting in the *Federal Register*. This notice must be published at least 15 calendar days before the meeting.<sup>26</sup> Less than 15 calendar days' notice may be given in exceptional circumstances, provided the reasons for doing so are included in the meeting notice published in the *Federal Register*.

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<sup>25</sup> Order 1120.3D is the current version.

<sup>26</sup> Closed FAC meetings also require a notice published in the Federal Register.

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Generally, the *Federal Register* notice describes who is permitted to attend and ensures all interested persons are notified of the meeting. (See § 10(a) (2) of FACA.) Under FACA, the *Federal Register* notice must include:

- The name of the FAC;
- The time, date, place (physical and virtual meeting information), and purpose of the meeting;
- A summary of the agenda;
- A sentence stating that any member of the public may submit written comments concerning the FAC’s affairs;
- A statement regarding whether the public may speak at the meeting in accordance with guidelines developed by the FAA or the FAC;
- The name, address, email address, and telephone number of the FAA official to whom the public may address any inquiries; and
- A reasonable deadline for written comments from the public to allow time to copy and mail or email them to the FAC before the meeting.


**FAA Policy Requirements**

The FAA requires the following be included in the *Federal Register* notice of a public meeting in addition to the FACA notice requirements:

- Building security requirements, if any;
- A statement regarding the availability of sign language, oral interpretation, and assisting listening devices; and
- A statement announcing that meeting space is limited, and seating is on a first-come, first-served basis, if applicable.

**1.4.2 Meeting Location**

DOT policy states that FAC and subcommittee meetings must be held at a DOT facility within the Washington, DC area unless it is more cost-effective or convenient to hold a meeting

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elsewhere.<sup>27</sup> If it is not possible to hold the meeting at a DOT facility within the Washington Metropolitan Area, the DFO must follow the Department’s procedures to obtain a waiver from the Office of the Secretary.<sup>28</sup> The request should be made at least 60 days before the proposed meeting.

**1.4.3 Public Participation**

Public participation may be considered in determining when and where the FAC public meeting will take place.

Members of the public may offer oral comment, at the Chair’s discretion. The Chair may decide in advance to exclude oral public comment during a meeting, in which case the meeting announcement published in the *Federal Register* will note that oral comment from the public is excluded and will invite written comment as an alternative. Members of the public may submit written statements to the FAC through the DFO at any time.

A FAC may be conducted in whole or part by a teleconference, videoconference, video streaming, web platform, or other electronic medium. If these options are available, details describing how to access the information should be included in the *Federal Register* notice.

The FAA does not reimburse for telephone call charges when participating in a teleconference.

**1.4.4 Meeting Materials**

As required by FACA, the FAA is required to keep detailed minutes for all FAC meetings, including a record of the persons present at the FAC meetings and documents received, issued, or approved by the FAC. These documents and all other FAC minutes, transcripts, reports, studies, etc., must be available for public inspection and copying. Information about the FAC, including certain publicly available documents (e.g., public notices, agendas, reports, and written public comments) may also be posted on the FAA committee’s website.


Fees will be charged for information furnished to the public in accordance with the fee schedule published in 49 CFR part 7. Records shall be handled in accordance with General Records Schedule 6.2, or other approved agency records disposition schedule.

**1.5 PUBLIC AVAILABILITY OF FAC RECORDS**

FACA requires advisory committees to ensure timely access to advisory committee records. All records that are made available to or created by FAA advisory committees must be made

<sup>27</sup> This also applies to any FAC subcommittee or working group.

<sup>28</sup> Waiver requests are normally processed by the Department’s CMO.

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available to the public on the committee’s website, or at another single location at an FAA or advisory committee office.

Records that must be made available to the public include reports, transcripts, minutes, appendixes, drafts, studies, agendas, and communications that have been provided to the advisory committee as a whole. Records not required to be made publicly available include documents that predate the committee’s formation, such as communications regarding membership selection.

Records must be made publicly available in a timely manner. For instance, records relevant to an upcoming meeting must be made available before or contemporaneously with the meeting to provide the public a meaningful opportunity to comprehend fully the work undertaken by the advisory committee.

Advisory committee records must be made available to the public without requiring members of the public to file requests under the Freedom of Information Act (FOIA). However, advisory committee records may be withheld or redacted if there is a *reasonable expectation* that the records or portions of records fall under one of the exemptions contained in 5 U.S.C. 552(b). See Appendix B for further information on FOIA.

## 1.6 ANNUAL COMPREHENSIVE REVIEW


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The FAA is required to conduct an Annual Comprehensive Review (ACR) for each FAC at the end of each fiscal year. The ACR is a comprehensive review of the activities and responsibilities of each FAC to determine whether:

- Such committee is carrying out its purpose;
- Consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;
- It should be merged with other advisory committees; or
- It should be abolished.

The Department’s CMO will communicate the timeline for completing the ACR.



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## CHAPTER 2.0: ROLES AND RESPONSIBILITIES

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### 2.1 CHAIR

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The Chair serves as the focal point for all FAC activities, presides over the FAC’s public meetings, and approves the accuracy of the meeting minutes. The Chair works with the DFO and the Vice Chair, if applicable, to identify issues, establish priorities, and determine the level and types of staff required. This includes coordinating with other members to ensure there are no duplication of efforts or conflict of concepts.

**Note:** If the Chair is not available, the Vice Chair (if applicable) assumes the Chair’s responsibilities.


### 2.2 FEDERAL ADVISORY COMMITTEE MEMBERS

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FAC members are expected to:

- Attend and actively participate in all FAC meetings;
- Provide oversight, deliberation, comments, and approval of the activities;
- Contribute respective aviation or aerospace knowledge and expertise;
- Participate as a member on a subcommittee or working group, if desired;
- Coordinate with the constituents of the aviation or aerospace sector represented by that member; and
- Inform the Chair and the DFO when they can no longer represent their segment for which they were appointed on the FAC.

A committee member may be removed from membership for good cause. Good cause includes excessive absenteeism from committee meetings, a demonstrated bias that interferes with the ability to render objective advice, or failure to abide by the established DOT/FAA procedures and FACA.

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## **2.3 FAA PARTICIPATION**

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### **2.3.1 DFO**

The DFO is responsible for implementing the provisions of §§ 10(e) and (f) of FACA and any FAA procedures regarding the FAC.


Each FAC must have a DFO who is responsible for:

- Ensuring compliance with FACA and any other applicable laws and regulations;
- Calling and attending FAC meetings;
- Approving agendas;
- Maintaining required records on costs and membership;
- Ensuring efficient operations;
- Maintaining records for availability to the public;
- Adjourning any FAC meetings when doing so would be in the public interest; and
- Chairing meetings when directed to do so by AOA.

### **2.3.2 FAA Representative**

The FAA Representative performs critical roles in achieving the goals and objectives assigned to a FAC. This includes:

- Serving as the FAA’s spokesperson for all activity within a subcommittee or working group;
- Attending subcommittee or working group meetings;
- Working with subcommittee or working group chair to formulate and approve meeting agenda;
- Serving as the focal point for all communication between the subcommittee or working group and the FAA when an issue is addressed;

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- Approving the subcommittee or working group members, which may be done in coordination with the Committee Chair;
- Providing day-to-day oversight of subcommittee or working group activities;
- Arranging for legal and economic support of an attorney and an economist, respectively, when requested; and
- Ensuring the subcommittee or working group addresses its tasks.

**2.3.3 The FAA Office of the Chief Counsel**

FAA attorneys do not hold formal roles on FACs. However, attorneys in the Information Law Division of the Chief Counsel Office (AGC-400) provide legal advice as needed to ARM and the FAA officials who manage FACs to ensure FACs adhere to FACA. Attorneys in the Ethics and Compliance Division (AGC-900) provide legal advice regarding ethics as needed and provide review of membership packages.

**2.3.4 The FAA Economist**

The Executive Director of Aviation Policy and Plans serves as the FAA’s Economist and provides guidance, as needed, to a FAC on issues related to benefits and costs.

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## **CHAPTER 3.0: SUBCOMMITTEES AND OTHER SUBGROUPS**

Subcommittees are groups, generally not subject to FACA, that report to an advisory committee and not directly to a Federal officer or the agency. FAA advisory committees often create subgroups, which report either to the parent FAC or to another subgroup. Depending on the FAC, these subgroups do not always use similar terminology, and could be called subcommittees, task groups, task forces, panels, working groups, or a variety of other names. For the purpose of this committee manual, “subcommittee” is used to describe those groups that report directly to the parent FAC, and “other subgroups” describes groups that report directly to a subcommittee.

### **3.1 CREATION OF SUBCOMMITTEES; MEMBERSHIP**

The creation and operation of any subcommittee must be approved by AOA (*not* the DFO or parent committee).

FACA subcommittee nominations and appointments must be reviewed by the FAA Office of the Chief Counsel ethics officer and Designated Agency Ethics Official (DAEO). Review current DOT policy (DOT Order 1120.3) and the relevant Advisory Committee charter to ensure subcommittee member appointments receive the appropriate level of approval and notification.

Creation and membership for groups that report directly to subcommittees are governed by processes established in DOT Order 1120.3.


### **3.2 REPORTING THROUGH THE ADVISORY COMMITTEE**

All subcommittees and other subgroups must provide their recommendations through the parent committee, and not directly to the DOT, FAA, or any Federal Officer. The parent committee receiving the subgroup’s recommendation must meaningfully deliberate on the recommendation in a public meeting, and vote on the recommendation before submitting it to the FAA. In other words, the parent committee must not “rubber stamp” the subgroup’s recommendations.

Subcommittees and other subgroups that make recommendations directly to the FAA or an FAA official, or if its recommendations will be adopted by the parent FAC without further deliberation, must comply with all of FACA’s openness requirements.

### **3.3 SUBCOMMITTEE REQUIREMENTS**

The following requirements apply to FAA subcommittees:

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- Meetings must be called or approved by the DFO or a delegee;
- The DFO or a delegee must attend all subcommittee meetings;
- Subcommittees must not act independently of the parent FAC and must only receive taskings that relate to the FAC’s purpose.

The following FACA requirements do *not* apply to FAA subcommittees and other subgroups<sup>29</sup>:

- Meetings do not need to be announced in the Federal Register;
- Meetings are not required to be made open to the public;
- Records are not required to be made available to the public (but are subject to FOIA if in the possession or control of the FAA).

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<sup>29</sup> Advisory committees are free to elect to apply any provision of FACA to their subcommittees in any particular instance.

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## **PART IV: APPENDICES & ORGANIZATION CHART**

### **APPENDIX A: RECORDKEEPING**

#### **A.1 ARC**

ARM must maintain the following official records:

- Charter;
- Official correspondence relating to ARC activities;
- Membership information; and
- Final recommendation reports submitted in response to tasking statements.


#### **A.2 FAC**

The DFO or OPR maintains the official records. The following records must be maintained either by the sponsoring office or on the FACA database:<sup>30</sup>

- Charter;
- Membership Balance Plan, if applicable;
- Membership information;<sup>31</sup>
- Agendas and meeting minutes;
- *Federal Register* notices;
- Studies, analyses, interim reports, and final recommendation reports presented to the FAC for discussion;
- Records of time served and claims for payment, as appropriate.
- Official correspondence relating to committee activities.

<sup>30</sup> <https://www.facadatabase.gov/FACA/FACAPublicPage>. The following documents are stored on the FACA database – charter, membership balance plan, and membership information.

<sup>31</sup> This includes subcommittee and working group members.

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## **APPENDIX B: FREEDOM OF INFORMATION ACT**

Under the Freedom of Information Act (FOIA), the FAA must make records available upon a request that reasonably describes the records and is made in accordance with published rules unless the records fall within one of the [nine FOIA exemptions](#). 5 U.S.C. § 552(b).

### **B.1 ARC**

Any ARC information in the custody and control of the FAA is releasable to the public under FOIA unless it falls within one of the nine statutory exemptions.


The FAA personnel participating in the ARC must be aware of the type of information in their possession. For example, if manufacturers share sensitive data with the ARC, the FAA personnel may look at and discuss the data during the meeting without the information being subject to a FOIA request. If FAA personnel take possession of the information upon leaving the meeting, then the ARC information is subject to FOIA (but may be withheld from public release if an exemption applies). If FAA personnel need data to complete the ARC assignment, they should make sure the data is in a form or format that would be releasable under FOIA. Proprietary data or data in which the source’s identity is sensitive should be marked out or removed before the FAA personnel takes possession of the documents. (See FOIA, 5 U.S.C. § 552. Also, see [Part I; section 1.3 Proprietary Information](#), for more guidance.)

At times, the FAA may deem it appropriate to exercise its options under the FOIA exemption 5 to withhold recommendations, opinions, and analyses under the deliberative process privilege. The FAA withholds information under Exemption 5’s deliberative process privilege when allowing release of these documents would discourage open and frank discussions between FAA personnel or create confusion in those cases where the FAA does not adopt recommendations and opinions. Exemption 5 allows the FAA to protect deliberative, pre-decisional materials, such as advisory opinions, and recommendations presented by FAA staff, while reaching a final determination or position on any particular matter under agency consideration. However, purely factual information that does not reveal deliberations, and is not subject to other FOIA exemptions, will be segregated out and released. Typically, the requested ARC documents can be made available to the public after the publication of the relevant rule.

### **B.2 FAC**

Records, reports, transcripts, minutes, and other documents that are made available to, or prepared by a FAC, will be publicly available. Section 10(b) of FACA provides that:


"Subject to section 552 of title 5, United States Code, the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which

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were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in the offices of the advisory committee or the agency to which the advisory committee reports until the advisory committee ceases to exist."

Members of the public should not be required to file a FOIA request for FAC information that meets this requirement. The purpose of section 10(b) is to provide for the contemporaneous availability of FAC records that, when taken in conjunction with the ability to attend FAC meetings, provide a meaningful opportunity to fully comprehend the work undertaken by the FAC. Records covered by the exemptions set forth in section 552(b) of FOIA may generally be withheld. However, it should be noted that FOIA Exemption 5 cannot be used to withhold documents reflecting a FAC's internal deliberations.



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## APPENDIX C: CONSENSUS

### C.1 DEFINITIONS RELATED TO CONSENSUS

Consensus:

- General agreement by committee members.
- Is best achieved after debate and deliberation between committee members.
- Does not mean that the “majority rules.” Consensus can be unanimous or near unanimous.

There are different outcomes of consensus, which include:

- **Full consensus:** All members fully agree in context and principle and fully support the specific course of action.
- **General consensus:** Although there may be disagreement, the members have heard, recognized, acknowledged, and reconciled the concerns or objections to the general acceptance of the members. Although not every member fully agrees in context and principle, all members support the overall position of the ARC or FAC and agree not to object to the proposed course of action.
- **Dissent:** There may be times when one or more committee members do not agree with the recommendation or cannot reach agreement on a recommendation.


### C.2 CONSENSUS PROCESS

#### C.2.1 Determining Consensus

Each committee should establish a process by which it determines if consensus has been reached. During the first meeting, members should determine how to measure consensus, by either voting or polling.

#### C.2.2 Documenting Consensus

While consensus is desirable for every phase of the committee process, it is more important to provide the FAA decision-makers with the best information and analysis possible, including differing perspectives.

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C.2.2.1 Full Consensus

Ensure the recommendation report states every committee member is in full agreement with the recommendation(s).

C.2.2.2 General Consensus

Although there may be disagreement, the members have heard, recognized, acknowledged, and reconciled the concerns or objections to the general acceptance of the members. Although not every member fully agrees in context and principle, all members support the overall position of the ARC or FAC and agree not to object to the proposed course of action. While the committee may support the overall position, it may choose to document the areas of concerns.

C.2.2.3 Dissenting Position


There may be times when member(s) or the entire committee cannot reach a consensus on the recommendation(s).

If the entire committee cannot reach agreement on the recommendation(s), the Chair submits a statement to the DFO or FAA Co-Chair explaining the issues and concerns and why an agreement was not reached.

If a member(s) does not concur with a recommendation(s) or the entire recommendation report, the dissenting member(s) drafts the dissenting position for the recommendation report.

**C.2.3 Requesting a Facilitator**

It may be advantageous to bring in a group facilitator to ensure all avenues of the problem have been explored and investigated. If a committee wishes to use a facilitator to help reach consensus, the Chair will ask the DFO or FAA Co-Chair to arrange for the services of a facilitator or the FAA may consider requests for a facilitator from a member.

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## **APPENDIX D: SHARING CONFIDENTIAL INFORMATION**

Information sharing can be vital to ensuring the group’s success when completing assigned tasks. However, if a member decides to share any nonpublic proprietary, privileged, business, commercial, or other sensitive information (collectively, Confidential Information) with any or all group members, they must take particular care to ensure that the information does not become public unless the party sharing the information consents.


Please keep in mind the following when deciding what information to share and who to share it with:

- All work products submitted to a FAC are public documents. Therefore, any document submitted to a FAC should not contain Confidential Information that members would not want publicly available.<sup>32</sup>
- All work products submitted to the FAA from an ARC may be subject to FOIA. Therefore, any document submitted to the FAA should not contain Confidential Information that members would not want publicly available.<sup>33</sup>
- If any Confidential Information is shared with the FAA representative on a FAC or ARC, it must be properly marked in accordance with the FAA Committee Manual. The FAA will do everything reasonable to accommodate the request of the member to protect the Confidential Information, in accordance with § 11.35(b) of Title 14 of the Code of Federal Regulations (14 CFR). Information in possession of FAA personnel will be made publicly available upon request under FOIA, subject to FOIA’s nine exemptions. Therefore, FAA personnel may look at and discuss data during a meeting without the information being subject to a FOIA request. However, if the FAA personnel takes possession of the information upon leaving the meeting, then that information may be releasable under FOIA if no exemption applies. Therefore, wherever possible, proprietary data or data in which the source’s identity is sensitive should be removed or redacted before the FAA personnel takes possession of the document.


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<sup>32</sup> This applies to documents the associated subcommittees, working groups, and task groups provide to the FACs. If Confidential Information exempt under FOIA *must* be submitted to a FAC, then the subcommittee, working group, or task group submitting the document must notify the DFO they intend to submit Confidential Information so that appropriate procedural steps can be taken to protect it from public disclosure, including but not limited to redaction of information within documents and closure of all or portions of a meeting in accordance with applicable procedures.

<sup>33</sup> If Confidential Information must be submitted to an ARC, it must be properly marked in accordance with the FAA Committee Manual. This will assist agency personnel in identifying information that is exempt under FOIA and ensuring it is properly redacted or withheld if appropriate.

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- There are instances where members of the FAC or ARC will need to share Confidential Information within the group for the purposes of completing an assigned task. Members must not disclose this information to any third party or use it for any purposes other than the assigned task.
- Any Confidential Information disclosed to one party by another party must not be disclosed to others without prior written consent of the party whose Confidential Information is being disclosed.
- All parties must treat Confidential Information of the disclosing party as they would treat their own Confidential Information. In no event shall parties use less than a reasonable degree of care in their treatment of other parties' Confidential Information.
- Use care when taking meeting notes and when creating written documents that do not include Confidential Information. In cases where Confidential Information must be included, ensure that it is marked as such and not provided to FAA personnel.

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## **APPENDIX E: ANTI-TRUST GUIDELINES FOR COMMITTEES**

These guidelines apply to any meeting or gathering of competitors, so they apply at meetings with other trade associations or government representatives; and at gatherings, such as dinners that may follow a meeting. Participants should observe the following guidelines:

### **E.1 MEETINGS AND GATHERINGS**


- Avoid any discussions or conduct that violates antitrust laws or raises an appearance of impropriety.
- At meetings, limit discussions and materials to agenda topics (unless additional topics are within the committee’s scope and tasking.
- Discontinue the discussion and consult with counsel whenever questions regarding antitrust compliance arise.
- Do not stay at a meeting, or any other gathering, if discussions mentioned below are taking place.

### **E.2 INFORMATION**

- Do not discuss or share:
  - Any company’s confidential or proprietary information;
  - Prices of particular products or services of a company;
  - Any company’s purchasing plans for particular products or services;
  - Any company’s specific merger/divestment plans, market allocation, development plans, inventories and costs (only publicly available information should be discussed or shared);
  - Specific company compliance costs, unless information is publicly available; and
  - Information that your company considers to be confidential or sensitive, even if that information does not fit in any other category above.
  - Do not forecast prices for goods or services.
- Any discussion regarding potential economic scenarios that may arise must be limited to

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generalities. There should be no discussion of how individual companies intend to respond to potential economic scenarios or government action.

### **E.3 VENDORS AND PRODUCTS**

- There shall be no:
  - Agreement or discussion regarding the purchase or sale of a product or service – purchasing and selling decisions are an independent company decisions;
  - Agreement by all companies to use a product or service or that one product or service is preferred;
  - Agreement by all companies not to use a product or service or that one product or service is not preferred.
- Individual companies may share fact-based experiences but should not make explicit recommendations for or denunciations of a vendor at meetings.
- All discussions related to vendor products and services must be grounded in facts.
- Do not make disparaging remarks about vendors.
- Do not make subjective comments if there is no factual basis.
- You may share information based on facts.

## APPENDIX F: ARC ORGANIZATION & ROLES

