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Report to the Chairman, Committee on
Governmental Affairs, U.S. Senate

October 1988

FEDERAL ADVISORY COMMITTEE ACT

General Services Administration's Management of Advisory Committee Activities





United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-231312

October 5, 1988

The Honorable John Glenn
Chairman, Committee on
Governmental Affairs
United States Senate

Dear Mr. Chairman:

This report responds to the Committee's request that we review the manner in which the General Services Administration (GSA) is administering the Federal Advisory Committee Act (FACA). We have made a series of reviews in the past year of matters related to the act. We testified before your Committee on December 3, 1987, on the President's Commission on AIDS¹ and on April 19, 1988, on the Department of Defense's compliance with the act.²

Results in Brief

GSA has focused its attention on preparing the President's annual reports to Congress and issuing guidance to departments and agencies. GSA has not carried out its other responsibilities under FACA. It has not ensured that advisory committees were properly established, that each committee was reviewed annually, and that reports on Presidential advisory committees' recommendations were prepared for Congress. GSA officials attributed the shortcomings to limited staff capability and management inattention, and they said they were developing the capacity to carry out these FACA functions.

Approach

The objective of our review was to evaluate the extent to which GSA has carried out its responsibilities under FACA. While the President, the various agencies using advisory committees, Congress, and GSA all have responsibilities under the act, the scope of our review was limited to GSA. We reviewed FACA's provisions, the act's legislative history, and GSA's regulations on advisory committees and compared the act's requirements to actions GSA has taken.

In determining what GSA has done to fulfill its responsibilities, we reviewed GSA's actions on 114 proposed charters and justification letters

¹The President's Commission on AIDS (GAO/T-GGD-88-6, Dec. 3, 1987).

²DOD Compliance With the Federal Advisory Committee Act (GAO/T-GGD-88-31, Apr. 19, 1988.)

submitted by agency heads to GSA during fiscal year 1987 and early fiscal year 1988. Agency heads submit proposed charters and justification letters to GSA when they want to establish, reestablish, or renew an advisory committee. We reviewed annual reports submitted to GSA by agencies on advisory committee operations and analyzed the data contained in the reports. We also analyzed the information contained in annual reports submitted to Congress by GSA.

We interviewed Department of the Interior and Health and Human Services officials to obtain an understanding of the information agencies include in their reports to GSA. In addition, we interviewed GSA officials responsible for oversight of advisory committees to determine how they perceive their roles and responsibilities. Our work was done between May and September 1988 in accordance with generally accepted government auditing standards.

Background

Congress passed FACA in 1972, acting on a concern that federal advisory committees were proliferating without adequate review, oversight, or accountability. The legislative history of FACA indicates that Congress intended that the number of advisory committees be kept to the minimum necessary and that they operate under uniform standards and procedures in the full view of Congress and the public.

While Congress recognized the value of advisory committees to public policymaking, it included in FACA measures intended to ensure that (1) valid needs exist for establishing and continuing advisory committees, (2) the committees are properly managed and their proceedings are as open as possible to the public, and (3) Congress is kept informed of their activities. The act directed the President, the Director of the Office of Management and Budget (OMB), and agency heads to control the number, operations, and costs of advisory committees.

To help accomplish these objectives, FACA established a Committee Management Secretariat in OMB and made it responsible for all matters relating to advisory committee administration. In 1977, the President transferred advisory committee functions from OMB to GSA. The President also delegated to GSA all the functions vested in the President by FACA, except that the annual report to Congress required by section 6(c) of the act was to be prepared by GSA for the President's consideration and transmittal to Congress. The Secretariat is under GSA's Associate

Administrator for Administration. As of September 1988, the Secretariat had five full-time staff, and its budget was \$220,000 for fiscal year 1988.

The act requires that each agency head designate an Advisory Committee Management Officer to help manage the committees and that a designated federal official chair or attend each committee meeting.

GSA reported that 992 advisory committees, consisting of 19,837 members, were subject to FACA during fiscal year 1987. Of the 992 committees, 603 were directed or authorized to be created by statute; 22 were created by the President; and 367 were created by agency heads. According to GSA, the government's cost to establish and maintain the advisory committees was about \$79 million in fiscal year 1987. The number of advisory committees has varied from approximately 1,400 in 1972, when FACA was enacted, to a high of 1,519 in 1975 and a low of 947 in 1982. The number has since remained relatively constant, as shown in figure 1.

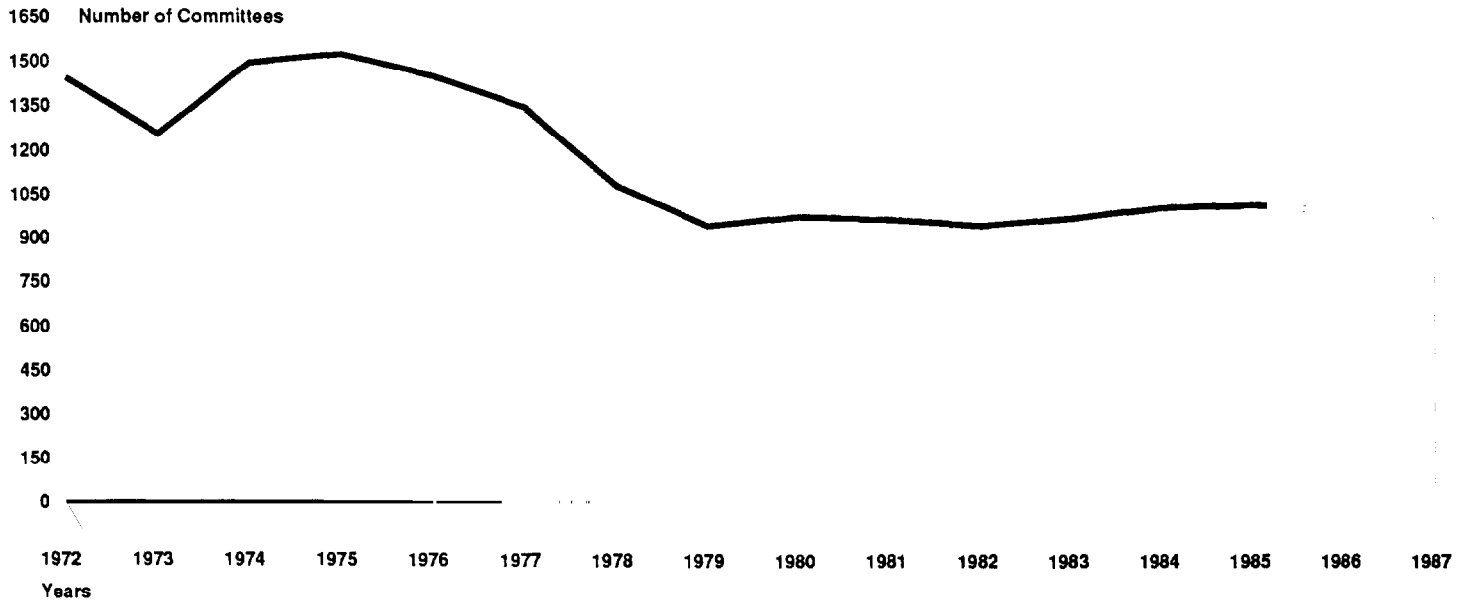
Eighteen departments and agencies, which each established, used, or supported 10 or more advisory committees during fiscal year 1987, together accounted for over 90 percent of the 992 committees in existence that year. These departments and agencies are shown in the appendix.

The proposed Federal Advisory Committee Act Amendments of 1988 (S. 2721), introduced August 10, 1988, would amend various FACA provisions but would continue GSA's responsibilities.

GSA Consultation on Proposed Advisory Committees

Federal advisory committees may be created under FACA by statute, the President, or an agency head. FACA requires that agency heads consult with GSA before they establish advisory committees.³ GSA believes that this consultation process is the Committee Management Secretariat's most highly visible role, and therefore it should be a meaningful, rather than a pro forma, activity. However, GSA does not have the authority under FACA to stop the formation of an advisory committee. As provided in GSA's regulations, its consultation role is limited to reviewing agencies' proposals to establish advisory committees and determining whether

³The Committee Management Secretariat reviews all charters prior to filing for advisory committees established by agencies. In accordance with section 9(c) of the act and GSA's regulations, GSA receives copies of all charters at the time of filing.

Figure 1: Total Number of Federal Advisory Committees, 1972-1987

Note: Includes advisory committees created by statute, Presidential order, and agency directive. Data reported to GSA by departments and agencies and unverified by GAO.

FACA requirements are met. GSA provides its views to agencies, but notwithstanding GSA's views, an agency can establish a committee by filing a charter with the committees of the Senate and the House of Representatives having legislative jurisdiction over the agency, the Library of Congress, and the Secretariat.

GSA requires agencies to submit a proposed charter and justification letter before they establish a committee. The charter and justification letter must contain specific information, such as the committee's objectives and scope, as prescribed in FACA and in GSA's regulations. The regulations say that if possible, GSA will review each such proposal and notify the agency of its views within 15 days.

We reviewed 114 proposed charters and justification letters submitted to GSA by agency heads between October 1, 1986, and May 16, 1988, the date we began our work at GSA. We found that GSA had completed its reviews within 15 or 16 days for 104 of the 114 proposals; the other 10

required 17 to 33 days. GSA concurred in the agencies' proposals to establish all 114 committees.

Of the 114 charters and justification letters we reviewed, 52 were missing 71 items that FACA or GSA regulations required and that GSA said it needs to determine FACA compliance and for other consultation purposes. The most frequently missing item of information in the charters was the identification of the agency responsible for providing the necessary support for a proposed committee. This was missing from 30 charters. Other FACA-required information was missing from 12 charters as follows:

- Seven did not show the estimated annual operating costs in dollars and staff years.
- Three did not show the estimated number and frequency of committee meetings.
- One did not contain a description of the committee's duties.
- One did not show the agency or official to whom the committee would report.

In addition to the deficient charters, in 29 instances information required by GSA's regulations was missing from justification letters as follows:

- Fifteen did not include a description of the agency's plan to attain balanced membership in terms of points of view represented and the functions performed.
- Nine did not explain why the committee's functions could not be done by the agency, another existing advisory committee of the agency, or other means such as a public hearing.
- Five did not explain why the committee was essential to agency business and in the public interest.

The Secretariat Director agreed that charters and justification letters were sometimes missing required information. He said that he plans to prescribe standard documentation for use in proposing and reviewing the establishment of advisory committees to help ensure that all required information is furnished.

Annual Comprehensive Reviews

FACA requires GSA to make an annual comprehensive review of each advisory committee to determine if it is carrying out its purpose, whether its responsibilities should be revised, and whether it should be abolished or merged with another committee. After completing the reviews, GSA is required to recommend to the President, and to either the agency head or Congress, any actions GSA deems should be taken.

GSA requires agencies to review at least annually the need to continue each existing advisory committee. Among other information, agencies are to report to GSA:

- how the committee accomplishes its objectives, and the effect of committee advice on the sponsoring agency's operations;
- how the agency has achieved balanced membership on the committee;
- how frequently the committee met during the previous fiscal year;
- why the functions of the committee cannot be achieved through other measures available to the sponsoring organization; and
- why committee meetings were closed, if applicable.

GSA told us that it does not verify the data it receives from agencies and that it accepts the agencies' data as is, including their recommendations as to whether a committee should be continued, merged, or terminated. GSA, in turn, submits the agencies' reports directly to Congress as appendices to the President's annual report required by FACA and does not indicate that the data used in the report were not verified.

We reviewed the reports that agencies submitted to GSA on each advisory committee in operation during fiscal year 1987. We noted that a number of committees had held no meetings during the previous 1 or 2 years. Some of these committees incurred costs even though they had not met. Most of the costs were for federal staff doing such tasks as answering correspondence and contacting committee members.

Of the 992 advisory committees in existence during fiscal year 1987, 86 committees held no meetings; yet they incurred costs totaling about \$535,000, about 78 percent of which was for federal staff compensation. Furthermore, 32 of these 86 committees did not hold any meetings during fiscal year 1986. These 32 committees incurred costs totaling about \$83,000 that fiscal year.

The agencies recommended that all 86 of the advisory committees be continued in fiscal year 1988. GSA did not question the need for any of the 86 committees, and all were continued. Agencies provided GSA with

explanations of why 60 of the 86 committees did not meet during fiscal year 1987. They reported that 28 of the 60 committees had not met because they were newly established. The reasons given by the agencies that the other 32 committees had not met were that

- 16 had no agenda items to consider,
- 5 had delays in appointing members,
- 4 were in the process of reorganization,
- 3 had no funding,
- 2 had difficulties scheduling meetings, and
- 2 had no chairpersons.

The agencies did not provide explanations why the remaining 26 committees did not meet. GSA did not request additional information to determine the reasons for no meetings during fiscal year 1987 or why the agencies believed the committees should be continued. Yet, GSA agreed with the agencies' recommendations to continue these committees.

While the agencies involved may have had valid explanations why the advisory committees had not met for up to 2 years, GSA did not determine why they were inactive or recommend that they should be abolished in accordance with FACA requirements.

GSA's Associate Administrator for Administration and the Secretariat Director cited various reasons for not having made the required comprehensive reviews. They said GSA did not have adequate information on advisory committee activities and that FACA responsibilities also suffered from several organizational changes over the years and from a lack of sustained management attention.

The officials said that limited staff capabilities caused GSA to selectively implement its FACA responsibilities. They believe that the Secretariat now has sufficient staff to carry out the comprehensive reviews and that as a first step, it is developing the information necessary to do so.

Reports to Congress

Under FACA, the President is required to report annually to Congress on the activities, status, and changes in the composition of advisory committees. The President or his delegate must also report to Congress the actions, or reasons for inaction, on recommendations of Presidential advisory committees within 1 year after the committees submit their reports. GSA is responsible for preparing both reports for the President. The annual reports have not been submitted by the due date,

December 31, in recent years, and the follow-up reports have not been submitted since the early 1980s.

GSA submitted the fiscal year 1985 and 1986 reports to the President almost 10 months and 6 months, respectively, after they were due to Congress. The fiscal year 1987 report was submitted about 2 months after the due date. Moreover, the more recent reports have included less analysis of advisory committees' costs, meetings, and other activities than some earlier reports.

For example, the reports submitted for 1982, 1983, and 1984 identified committees with the highest total costs, member compensation costs, federal staff costs, travel costs, and consultant costs. The 1985 report had less cost analysis, and the 1986 and 1987 reports did not contain any of this information.

Similarly, earlier reports included analyses of advisory committee meetings. They identified agencies with committees holding no meetings, the costs associated with committees holding no meetings, and included a narrative of the reasons for no meetings. In the 1985, 1986, and 1987 reports, no mention was made of advisory committees that held no meetings.

According to GSA, follow-up reports have not been submitted since the early 1980s. Until that time, GSA had requested agencies that housed and/or provided staff support for Presidential committees to prepare the follow-up reports. GSA then sent the reports to OMB for review and submission to the Congress on behalf of the President.

The Secretariat Director told us that GSA does not have the expertise to determine the adequacy of proposals for action or reasons for inaction on recommendations made by Presidential advisory committees. He said that in his opinion, GSA should be responsible for making sure that such reports are prepared but that each agency must actually prepare the reports.

The Secretariat Director agreed that GSA has been remiss in seeing that agencies prepare the follow-up reports. He said that he plans to establish procedures whereby each committee's charter would identify the organization responsible for the reports.

Conclusions and Recommendations

GSA has not accomplished its advisory committee responsibilities required by FACA. A number of factors have contributed to this circumstance, including insufficient management attention by GSA. GSA officials believe that they now have the staff resources necessary to carry out the FACA requirements.

To ensure that the Secretariat receives the management attention and support necessary, we recommend that the GSA Administrator develop a written plan for implementing the FACA responsibilities and specify the target dates for completing tasks and the resources to be applied. The plan should provide for reviewing advisory committees that have not met for extended periods and determining whether GSA should recommend, in line with FACA requirements, that the committees be abolished.

As requested by the Committee, we did not obtain official agency comments on this report. We did discuss the results of our review with the Associate Administrator for Administration and the Secretariat Director, and they agreed with our findings and conclusions.

As arranged with the Committee, we are sending copies of this report to other interested parties and will make copies available to others upon request.

Sincerely yours,



Richard L. Fogel
Assistant Comptroller General

Departments and Agencies With 10 or More Advisory Committees in Fiscal Year 1987

Agency	Number
Health and Human Services	268
Interior	157
National Science Foundation ^a	72
Commerce	68
Defense	59
Commission on Civil Rights	51
Agriculture	48
Veterans Administration	34
Transportation	26
State	19
Labor	18
National Endowment for the Arts	15
Small Business Administration	15
Education	15
Energy	12
Environmental Protection Agency	12
United States Information Agency	12
National Aeronautics and Space Administration	11

^aOne committee, the Nuclear Science Advisory Committee, was transferred from the Department of Energy to NSF during FY 1987 and is counted only for the NSF total.

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