

General Services Administration

Open Government Federal Advisory Committee

Bylaws **DRAFT**

ARTICLE I **AUTHORITY**

The Open Government Federal Advisory Committee (hereinafter referred to as “the Committee” or “OG FAC”) is a discretionary advisory committee established by the Administrator of the U.S. General Services Administration (GSA). The Committee is established in accordance with and operates under the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. 1001 et seq.) as amended.

ARTICLE II **PURPOSE**

GSA’s U.S. Open Government Secretariat supports establishing a more transparent, responsive, and inclusive Federal Government. The general public, including civil society, have a role in shaping, overseeing, and advancing good government. The OG FAC will advise GSA in its endeavor to facilitate open government across the whole of government through making government information more open and accessible; increasing the public's access to data; advancing equitable access; engaging the public in the business of government, including its regulatory process; encouraging ethical practices; and improving the delivery of government services and benefits through increased transparency and accountability mechanisms.

ARTICLE III **MEMBERSHIP AND MEMBER RESPONSIBILITIES**

Section 1. **Composition.** The Committee shall be composed of no less than ten (10) and no more than twenty (20) federal and non-federal members, with a strong background and expertise in such areas as policy, management, academia, technology, law, State, federal, local and tribal governments, independent associations or councils, and appropriate industry sectors. Members will be designated as Regular Government Employees (RGEs), Representative members, or Special Government Employees (SGEs), as appropriate.

Section 2. **Appointment.** Members of the Committee are appointed by and serve at the discretion of the GSA Administrator. Members will be designated either as a Regular Government Employee (RGE), Special Government Employees (SGE), or Representative. Appointments are based on the person and cannot be transferred to another individual. Members may not designate another person to attend meetings, participate in discussions, or vote on committee matters on their behalf. If a member’s

position or affiliation changes, the member must immediately notify the Designated Federal Official (DFO). Additionally, if a member chooses to resign, he or she must submit the resignation in writing to the DFO.

Section 3. Terms of Office. Members will serve at the discretion of the GSA Administrator. Members will serve one (1) to three (3) year terms, except for vacancy appointments which shall be for the remainder of the unexpired term of a vacancy. It is GSA's policy that no member will serve for more than six (6) consecutive years. The initial terms for members will be staggered 1-, 2-, or 3-year terms to establish a rotation in which one-third of the members are selected each year. In the event that the OG FAC terminates, all appointments to the OG FAC shall also be terminated.

Section 4. Ethics Clearance. GSA may require individuals to provide a Statement of Employment and Financial Interests for review by the Office of General Counsel and receive annual ethics training

Section 5. Member Responsibilities.

A. Members are expected to attend committee meetings and participate in committee work. The DFO will recommend to the GSA Administrator through the Director of the U.S. Open Government Secretariat and the Associate Administrator, Office of Governmentwide Policy that any member who is unable to fulfill his or her responsibility be removed from the Committee.

B. The DFO may recommend committee members for removal for reasons such as, but not limited to: missing two consecutive, committee or subcommittee meetings, depending on the extenuating circumstances; not participating in the Committee's work; no longer meeting the committee member's membership criteria per their appointment letter; and/or engaging in activities that are illegal or violate the restrictions on members' activities.

C. A quorum of advisory committee or subcommittee members should not meet in any way (i.e., in person, virtually, by teleconference, or over email (or other electronic means)), to discuss the work of the advisory committee or subcommittee outside an open public forum. These types of meetings could be considered advisory committee or subcommittee meetings, which would be subject to the openness requirement under FACA, the Final Rule and this Order. This includes exchanging emails on the work of the advisory committee or subcommittee among a quorum of the advisory committee or subcommittee, or the full advisory committee or subcommittee.

D. Members may mention their membership status on the OG FAC in their bios and CVs, but they should not give it any more importance than any other affiliations.

E. Members must notify the DFO if they receive a request related to the committee and the nature of it.

F. Members must provide a disclaimer at the start of all interviews. The disclaimer must state that they are only speaking in their individual capacity and are not speaking on behalf of the committee or GSA. Committee members should only speak about topics that have been discussed during the public meetings. Non-public Information should not be discussed.

Section 6.

Restrictions on Member Activities.

A. Members may not use their access to the Federal Government as a member of the Committee for the purpose of soliciting business for or otherwise seeking economic advantage for themselves, their companies, or their employers. Members may not use any non-public information obtained in the course of their duties as a member for personal gain or for that of their company or employer. Members must hold any non-public information in confidence, including but not limited to draft reports, draft letters, subcommittee materials, or other pre-decisional documents.

B. If a member becomes a Federally registered lobbyist while serving on the Committee, engages in activities that would warrant resignation during their membership term, and/or no longer meets the membership criteria as required by the federal law, the member is required to report this information to the DFO immediately.

C. The Committee may advise the Administrator on recommended legislative action. In their capacities as members of the Committee, individual members may not petition or lobby Congress for or against particular legislation or encourage others to do so.

D. Members do not have the authority to make statements as a representative of the Committee to another government official or a member of the public, or when speaking outside the Committee structure at other forums or meetings. When referring to your membership on the Committee, Committee members may mention it along with their other roles, but it should not be given any more importance than the other

roles. Members of the Committee are advisors to the Administrator and have no authority to speak for the Committee, or GSA.

E. Members may not testify before Congress in their capacity as a member of the Committee. If requested to testify before Congress, members of the Committee:

- a. Cannot represent or speak for the Committee or GSA.
- b. Cannot provide information or comment on Committee recommendations that are not yet publicly available;
- c. May state they are a member of the Committee; and
- d. May speak to their personal observations as to their service on the Committee.

ARTICLE IV

COMMITTEE ROLES

Section 1.

Chair & Co-Chair. The GSA Administrator will appoint one (1) Chair and may appoint one (1) Co-Chair. The Chair serves several roles, including but not limited to: Committee leader, meeting facilitator, team/consensus builder, liaison between the Committee and the DFO, manager of Committee activities (including meetings, meeting agendas, and timelines), key developer and integrator of Committee work products, and general spokesperson for the Committee. There may also be a Co-Chair to assist the OG FAC Chair or to assume the duties of the OG FAC Chair when necessary. The OG FAC Chair:

- a. Presides at advisory Committee and subcommittee meetings.
- b. Directs and manages the work of the Committee or subcommittee during and in between committee meetings.
- c. Works closely with the DFO to ensure committee activities serve the purpose of the OG FAC as provided in the authority, complies with the authority, the FACA, the FACA Final Rule in the Code of Federal Regulations, and GSA's internal agency regulations regarding managing FACA committees.
- d. Certifies the accuracy of the minutes for each meeting within 90 calendar days to which the meeting relates.
- e. Advises the public at the beginning of each meeting about the Committee's rules on public participation.
- f. Conducts each meeting in accordance with the approved agenda.
- g. Facilitates committee member discussions to maintain focus on areas relevant to accomplishing the agenda and keeps members engaged.
- h. Determines when comments are not germane, when it's time to end the discussion, when a topic should be assigned to a

subcommittee for further consideration, or when discussions should be tabled until the next meeting.

- i. Coordinates how the work products and recommendations of the Committee are organized, generated, and transmitted to the GSA Administrator.
- j. Recommends the appointment of an OG FAC member, who has confirmed an interest, to a sub-committee, in consultation with the DFO, for approval and appointment by the Administrator.
- k. Invites experts to speak before the Committee, in consultation with the DFO.

Section 2.

Designated Federal Officer. The Administrator will designate a permanent full-time or part-time federal employee to serve as the Designated Federal Officer (DFO). There may also be an Alternate DFO. The DFO:

- a. Schedules all meetings of the OG FAC and its subcommittees, in consultation with the OG FAC Chair.
- b. Prepares and approves all meeting agendas, in consultation with the OG FAC Chair.
- c. Attends all committee and subcommittee meetings.
- d. Adjourns any committee or subcommittee meetings after determining that adjournment is in the public interest.
- e. Chairs meetings when directed to do so by the GSA Administrator.

The DFO is the central point of contact for the administrative operation of the Committee and its subcommittees, and is responsible for ensuring the Committee complies with the authority, the FACA, the FACA Final Rule in the Code of Federal Regulations, and GSA's internal agency regulations regarding managing FACA committees. The DFO works closely with committee members on administrative support needed for the duration of the Committee.

Section 3.

Subcommittee Chair & Co-Chair. The GSA Administrator will appoint one (1) Chair and may appoint one (1) Co-Chair for each subcommittee. The co-chair will assist the subcommittee chair or assume the duties of the subcommittee chair when necessary. Subcommittees must be chaired or co-chaired by an OG FAC member. The Chair/Co-Chair of the Subcommittee:

- a. Presides at advisory subcommittee meetings.
- b. Directs and manages the work of the subcommittee during and in between subcommittee meetings.
- c. Works closely with the DFO and OG FAC Chair to ensure subcommittee activities serve the purpose of the OG FAC as provided in the authority, complies with the authority, the FACA,

- the FACA Final Rule in the Code of Federal Regulations, and GSA's internal agency regulations regarding managing FACA committees.
- d. Certifies the accuracy of the minutes for each meeting within 90 calendar days to which the meeting relates.
 - e. Creates the subcommittee agenda in consultation with the OG FAC Chair, the DFO, and subcommittee members and conducts each meeting in accordance with the approved agenda.
 - f. Facilitates subcommittee member discussions to maintain focus on areas relevant to accomplishing the agenda and keeps members engaged.
 - g. Determines when comments are not germane, when it's time to end the discussion, when a topic should be brought to the Committee for further consideration, or when discussions should be tabled until the next meeting.
 - h. Coordinates how the work products and recommendations of the subcommittee are organized, generated, and transmitted to the Committee.

Section 4.

Advisory Committee Staff. Any federal employee, private individual, or other party (whether under contract or not) and is not a committee member may serve in a support capacity to the Committee or subcommittee. Advisory Committee staff serving in coordination with the DFO:

- a. May attend OG FAC preparatory and administrative meetings. Cannot provide feedback on the Committee's proposed recommendations before they are finalized by the Committee and transmitted to GSA.
- b. Ensure meeting minutes for all OG FAC meetings are captured, certified by the OG FAC Chair and posted by the DFO in a timely manner.
- c. Work with the DFO to coordinate meeting logistics.
- d. Support the DFO and OG FAC Chair during OG FAC meetings.
- e. Manage web conferencing during virtual and hybrid meetings.
- f. Ensure OG FAC members gain physical access to OG FAC meetings when required.
- g. Support the DFO with providing background materials to the Committee members.
- h. Answer committee technical questions for committee members.

ARTICLE V

MEETING PROCEDURES

The OG FAC will meet approximately four (4) times per fiscal year. Meetings shall occur as frequently as needed, called, and approved by the DFO. Meetings may be held virtually,

in-person, or a hybrid of in-person and virtually. Meetings will be formally structured and will be conducted in accordance with the requirements of the Committee charter and the Committee bylaws at all times.

Section 1. Meeting Schedule and Call of Meetings. Additional meetings may be called by the DFO, or at the request of the OG FAC Chair in consultation with the DFO. The DFO must attend each meeting of the Committee and subcommittees. Committee and subcommittee meetings must be approved in advance by the DFO.

Section 2. Agenda. Agendas for each committee and subcommittee meeting will be developed by the DFO in consultation with the respective Chair(s). The DFO is responsible for distributing the final agenda to the members. The DFO will also ensure that for each committee and subcommittee meeting, a summary of the agenda, and/or topics to be discussed, or the full agenda is published in the *Federal Register* a minimum of 15 calendar days in advance of the meeting date and on the Committee website as soon as practicable.

Section 3. Quorum. A quorum of the Committee is required to transact committee business. A quorum is defined as half the Committee members plus one (1). The DFO will determine if a quorum is present prior to each meeting of the Committee. If a quorum does not exist, the meeting may continue, but the Committee may take no official action. Alternatively, the DFO may cancel the meeting at their discretion if the meeting does not have a quorum of the members present. The process to determine quorum at the Committee level will be followed at the subcommittee level.

Section 4. Voting Procedures.

A. A quorum of the Committee must be present to hold a vote. In order for a decision to pass, it must receive a majority of the total votes from Committee members present. Any item presented to the Committee for a decision must be open to full committee deliberation prior to a vote.

B. Only Committee members present at a meeting may vote on a matter under consideration. No proxy votes will be allowed. All votes must be recorded in the minutes of the meeting.

C. The voting procedures at the Committee level will be followed at the subcommittee level.

D. Voting methods may be held by various means and are subject to change. They include but are not limited to voice vote, show of hands, and roll call.

Section 5. **Meeting Minutes.** Meeting minutes will be prepared for each committee and subcommittee meeting and certified by the OG FAC Chair within 90 calendar days of the meeting to which they relate. Once certified, the meeting minutes will be distributed to the members and posted to the Committee website.

The minutes will include a record of:

1. The time, date, and place of the meeting;
2. A list of all attendees, including members, staff, and the public;
3. An accurate description of each matter discussed and resolutions, if any, made by the Committee;
4. Copies of reports or other documents received, issued, or approved by the Committee; and
5. An accurate description of public participation, including oral and written statements provided.

The DFO must ensure that the OG FAC Chair certifies the minutes within 90 calendar days of the meeting to which they relate.

Section 6. **Open Meetings.** Unless otherwise determined in advance, all meetings of the Committee and subcommittees shall be open to the public and announced in the *Federal Register* at least 15 calendar days before the meeting and announced on the Committee website as soon as practicable. Members of the public may attend any meeting or portion of a meeting that is not closed to the public and may offer oral comment at such meetings as the agenda permits. Meetings should typically include a period for oral comments as a default. Members of the public may submit written public comments throughout the life of the Committee. Federal Register notices will inform the public of the procedure for submitting a written or oral statement to the Committee. All materials provided to the Committee in preparation for a public meeting will be posted to the Committee's public website. Such materials, including any comments by members of the public, are part of the meeting record.

Section 7. **Closing Meetings.** Advisory committee and subcommittee meetings may be closed or partially closed to the public based upon provisions of the Government in the Sunshine Act of 1976 (5 U.S.C. § 552b(c)). Where the DFO has determined in advance that discussions during a Committee or subcommittee meeting will involve a provision of the Government in the Sunshine Act (5 U.S.C. § 552b(c)), an advance notice of a closed meeting, citing the applicable exemptions of the Government in the Sunshine Act, will be published in the Federal Register. The notice may announce the closing of all or just a part of a meeting. If, during the course of an open

meeting, matters inappropriate for public disclosure arise during discussions, the DFO or the OG FAC Chair will order such discussion to cease and will schedule it for a future meeting of the Committee that will be approved for closure. No meeting or portion of a meeting may be closed without prior written approval by the GSA Administrator and notice published in the Federal Register. Closed meetings can only be attended by the DFO, Committee members, Committee staff and, if applicable, presenters. Presenters must leave immediately after giving their presentations and answering any questions.

ARTICLE VI EXPENSES AND REIMBURSEMENTS

Financial support for the Committee will be provided by GSA's Office of Technology Policy. Committee members (including the OG FAC Chair/Co-Chair) will not be compensated for their services and may be allowed travel expenses, including per diem, in accordance with 5 U.S.C. 5703. Regardless of the type of committee membership appointment, any travel expenses shall be paid at rates equivalent to that allowable to federal employees. All expenditures associated with the Committee must be approved by the DFO (or Alternate DFO) in advance of being obligated. Members may be reimbursed for travel and per diem expenses for in-person meetings.

ARTICLE VII ADMINISTRATION

The DFO manages the Committee's affairs. Any necessary administrative and clerical support (e.g. meeting space, travel arrangements, etc.) will be provided by GSA as needed.

ARTICLE VIII SUBCOMMITTEES

Subcommittees may be created by the Committee, in consultation and with the approval of the DFO, as needed. Subcommittees will meet as deemed necessary by the subcommittee chairs, in consultation with the DFO. Subcommittees must report back to the Committee and must not provide advice or work products directly to GSA. The OG FAC Chair may recommend members from the Committee to serve on a subcommittee. The OG FAC Chair may recommend to the DFO that appropriate non-OG FAC members be invited to serve on a subcommittee.

Subcommittees may invite testimony from outside individuals at subcommittee meetings. At the direction of the subcommittee chair, and in consultation with the DFO and the OG FAC Chair, the subcommittee chair or their designee may meet with government officials or other relevant persons to gather information.

Subcommittees must report their deliberations, recommendations, and advice to the Committee for the full deliberation and discussion by the Committee. Subcommittees have no authority to make decisions on behalf of the Committee or GSA and may only report to the Committee.

ARTICLE IX COMMITTEE REPORTS AND RECOMMENDATIONS

Section 1. Committee and Subcommittee Report and Recommendation Procedures. All advice, reports, and recommendations by the Committee must be submitted in writing, through the DFO, to the Administrator. Advice, reports, and recommendations received by the Committee from a subcommittee must be fully discussed, deliberated, and voted on in an open meeting. Once subcommittee reports and recommendations have been accepted by the Committee, they become committee reports and recommendations. All Committee reports and recommendations transmitted to the GSA Administrator will include a cover letter, signed by the OG FAC Chair. All reports and recommendations approved by the Committee will be placed on the Committee’s public website. The DFO will provide an annual report to the Committee, during an open meeting, on the status of any recommendations and reports received by GSA from the Committee in the previous two years and what actions have been taken on the recommendations.

ARTICLE X BYLAWS APPROVALS AND AMENDMENTS

Amendments to the bylaws must be agreed to by a majority of the members. The DFO must ensure that all members receive a copy of a proposed amendment before any vote is taken. Amendments will become effective immediately upon approval unless another time is specified.

Date Approved: xxx xx, 2024