

Answers to Questions Received regarding the Advisory Board on Toxic Substances and Worker Health

(Note: These questions were directed to the Designated Federal Official. His answers appear below.)

Q1 The Advisory Board Charter does not delineate the tasking of the Advisory Board. Can you clarify what tasks have been assigned to the Advisory Board?

- The charter was written in accordance with the legislation and the Executive Order that state four specific duties of the advisory board. *The Advisory Board shall advise the Secretary of Labor with respect to:*
 - (i) the site exposure matrices of the Department of Labor;
 - (ii) medical guidance for claims examiners for claims under subtitle E of the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) with respect to the weighing of the medical evidence of claimants;
 - (iii) evidentiary requirements for claims under EEOICPA subtitle B related to lung disease; and
 - (iv) the work of industrial hygienists, staff physicians, and consulting physicians of the Department of Labor and reports of such hygienists and physicians to ensure quality, objectivity, and consistency.

- Since the board has been established under the Federal Advisory Committee Act (FACA), DOL will follow the requirements of the FACA. These requirements are described in the final rule on Federal Advisory Committee Management 41 CFR Parts 101-6 and 102-3. We expect that the agendas will be developed in a collegial fashion consistent with FACA requirements.

Q2 The FRN for the nomination process states a candidate should provide " Any familiarity, experience, or history of participation with the EEOICPA program or *with administering a technically complex compensation program such as EEOICPA.*" The law doesn't provide for someone who administered a compensation program to be eligible to serve on the Board. Why was this criteria included?

- It is not a criteria, but simply information that could be considered. Familiarity with the EEOICPA program or other complex compensation programs may assist a board member in providing advice.

Q3 Can the Advisory Board Charter be changed?

- The charter is largely prescribed by FACA and the implementing regulations and it reflects the duties that Congress assigned the board by statute. The charter can be amended to make technical corrections or if the authorizing statute is amended.

Q4 What is the role of the Designated Federal Official (DFO)?

- The responsibilities of the DFO are delineated in the FACA. Those responsibilities are primarily administrative in nature and include:
 - (a) Approve or call the meeting of the advisory committee or subcommittee;
 - (b) Approve the agenda;
 - (c) Attend the meetings;
 - (d) Adjourn any meeting when he or she determines it to be in the public interest;
 - The DFO is also responsible for coordinating administrative support required by the board.
 - The DFO will work collegially with the chair and the members to carry out these responsibilities.

Q5 Can an individual whose 501 (C) (3) received donations from home health care or DME companies serve on the board?

- We are aware that the conflict of interest provisions contained in the Advisory Board may require clarification for specific situations. At this time we are encouraging the submission of all nominations and supporting materials. The Department of Labor will review and assess the application of the conflict requirements for each applicant during the review process.

Q6 Can a worker/claimant or family member claimant serve on the board without having their benefits suspended?

- All questions of this type that involve an individual's eligibility for EEOICPA benefits should be directed to the Division of Energy Employees Occupational Illness Compensation.

Q7 How will the work of the Board be supported administratively?

- OWCP has assigned dedicated staff to carry out the administrative work of the board and is considering utilizing a contract for some support functions to the board. Anticipated costs will depend on the requirements of the Board.