

LBLNRA FACA Board
Responses to Questions posed to LBLNRA Designated Federal Officer (DFO)
December 8, 2022

Note: The responses are to questions posed during the October 19, 2022, Board Meeting.

Protection Act, Charter and By-laws:

LBLNRA FACA Charter Preparation

The statutory and regulatory requirements for the components of a FAC charter are identified in Section 9 of FACA (5 U.S.C. App.) and are repeated in the FACA implementing regulations in 41 CFR § 102-3.75. The guidance provided in the FACA statute and regulation is broad and leaves room for interpretation; therefore, the GSA Committee Management Secretariat (CMS) prepared best practice guidance for writing effective and compliant advisory committee charters (Preparing Federal Advisory Committee Charters [PDF - 195 KB]). As noted in this guidance, there are 15 statutory and recommended components that need to be incorporated into a FACA charter. The DFO prepares the Charter in accordance with this guidance and work directly with the Forest Service FACA Program Manager and the USDA Committee Management Officer to prepare the Charter to ensure it meets the standards.

The Charter outlines the authority, scope, membership, reporting, recordkeeping, and other requirements of the committee. The Charter for the Land Between the Lakes (LBL) Advisory Board (Board) is hereby established pursuant to Section 460 of the Land Between the Lakes Protection Act of 1998. (Act) (16 U.S.C. 460 iii et. Seq.) and managed in accordance with the Federal Advisory Committee Act (FACA) as amended, (5 U.S.C. App. 2). The Charter supports the Act. The By-laws are established to support the Charter.

Charter Duration

In general, per 41 CFR § 102–3.55, a FAC automatically terminates two years after its date of establishment unless the statutory authority used to establish the FAC provides a different duration, the FAC charter is renewed, or the FAC completes its work and is terminated. 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).

FACA Management Final Rule, §102–3.75.

(a) Purpose and contents of an advisory committee charter. An advisory committee charter is intended to provide a description of an advisory committee’s mission, goals, and objectives. It also provides a basis for evaluating an advisory committee’s progress and effectiveness. The charter must contain the following information: (1) The advisory committee’s official designation; (2) The objectives and the scope of the advisory committee’s activity; (3) The period of time necessary to carry out the advisory committee’s purpose(s); (4) The agency or Federal officer to whom the advisory committee reports; (5) The agency responsible for providing the necessary support to the advisory committee; (6) A description of the duties for which the advisory committee is responsible and specification of the authority for any non-advisory functions; (7) The estimated annual costs to operate the advisory committee in dollars and person years; (8) The estimated number and frequency of the advisory committee’s meetings; (9) The planned termination date, if less than two years from the date of establishment of the advisory committee; (10) The name of the President’s delegate, agency, or organization

LBLNRA FACA Board
Responses to Questions posed to LBLNRA Designated Federal Officer (DFO)
December 8, 2022

responsible for fulfilling the reporting requirements of section 6(b) of the Act, if appropriate; and (11) The date the charter is filed in accordance with §102–3.70. (b) The provisions of paragraphs (a)(1) through (11) of this section apply to all subcommittees that report directly to a Federal officer or agency.

Board Membership Appointment Authority

Members' terms shall be for five years and may not succeed themselves. Succession applies to the person and not the position. Therefore, no member may serve on the Board for more than five consecutive years in any capacity. When a five-year term of a member ends, a new appointment will be made by the Secretary or authorized appointing official. All Board members are required to be vetted by USDA prior to appointments.

All appointments must be vetted by USDA. The Secretary will be notified by the U.S. Forest Service Washington, D.C. Office of all outside appointments to the Board. An appointing authority must make appointments consistent with all other guidance. Appointments from agencies other than USDA will be final when notification of the appointment is received by the DFO from the appointing agency.

An extension of a membership may be authorized for Board members whose terms were not fully exercised as a result of Board inactivity. However, all other membership requirements must be met for this consideration.

What are the roles of each individual Board Members?

Responsibilities of Board members include, but are not limited to, the following:

- Serve voluntarily without compensation and solely an advisory role,
- Attend and participate in Board meetings,
- Represent the constituent industry or interest group, as appointed,
- Abide by the Board's charter and cooperate with the DFO,
- Provide advice that is relevant, objective, and open to the public, and
- Comply with all FACA requirements and ethical guidelines.

All members receive ethics training to identify and avoid any actions that would cause the public to question the integrity of the Board's advice and recommendations. To ensure the recommendations of the advisory committee have taken into account the needs of the diverse groups served by the Department. Membership should include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Number of Authorized Board Meetings per Year

LBLNRA FACA Board
Responses to Questions posed to LBLNRA Designated Federal Officer (DFO)
December 8, 2022

Per the Board Charter, “The Board shall meet biannually to complete its work.” Additional meetings may be considered as needed by the DFO at the request of the Board or upon the decision of the DFO to inform the Board of new business.

Subcommittees

Subcommittees can be developed, and those meetings can be scheduled based on the intent and need of the work being done.

Board By-laws and Status

By-laws are not required for the efficient operation of any FACA Board, unless the authorizing language establishing the Board calls for By-laws. The DFO was advised by the USDA Committee Management Officer and the USDA Eastern Region Deputy Attorney on December 7, 2022, that the Board’s By-laws expire with each Charter expiration and must be renewed with each Charter renewal.

The intent of By-laws is to provide operational details in support of the Charter, which supports the Protection Act. If the Board finds a need for By-laws, the By-laws will need to be prepared so as to support the Charter and would be included in the next Charter renewal.

By-laws are established through Board participation in the development of the By-laws; if, the Board recommends the need for By-laws. In their respective roles, the Board members provide the perspective of the constituent industry or interest group they represent per their appointment during Board meetings.

Board Member Engagement of LBLNRA Staff Outside of the Board Meeting

When acting in the capacity of a Board member; in order to maintain the transparency of the process, it is recommended that the Board member(s) send the request for information to the DFO through the designated Board Outlook email account or by USPS mail to record the question into a public record. The DFO will direct the question to the appropriate LBLNRA staff and request an answer. The question and answer will be provided to the Board via a group message through the Board Outlook email account; thus, creating a method of informing all Board members of the question and answer, and to record the communication for the official Board files.

Board Online Work-Space Tool

The DFO has been informed that an online information technology work-space tool may be used by the Board. We are in the process of researching the availability of a USDA Chief Information Office approved tool that can be used by the Board.