

National Institute for Occupational Safety and Health Policy for the Selection of the Designated Federal Official for the Advisory Board on Radiation and Worker Health

This document summarizes the criteria for selecting the designated federal official (DFO) for the Advisory Board on Radiation and Worker Health (Advisory Board). Section 7384o of the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) authorizes the President to establish and appoint the Advisory Board to conduct independent reviews of the methods used for radiation dose reconstructions and to verify a reasonable sample of the reconstructed doses.¹ By Executive Order 13,179, the President designated the Secretary, Department of Health and Human Services to provide the Advisory Board with administrative services, funds, facilities, staff and other necessary support services.² The Secretary has delegated such responsibilities to the Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health (NIOSH).

NIOSH is committed to maintaining and securing the independence of the Advisory Board as it carries out its duties under Part B of the EEOICPA in accordance with the Federal Advisory Committee Act.³ Additionally, NIOSH agrees with the recommendation made by the Government Accountability Office in October 2007 and has developed the following criteria to guide the selection of the DFO to ensure that the Advisory Board's review process is not unduly influenced by the appointing authority or any special interests.⁴ These criteria specify that federal officials who fill key supporting roles to the Advisory Board are independent of the NIOSH Dose Reconstruction Program as administered by the Division of Compensation Analysis and Support (DCAS).

The criteria for selecting the DFO for the Advisory Board are as follows:

- The DFO must be a senior government official.
- The DFO must be free of financial conflicts of interest with regard to the business of the Advisory Board.
- The DFO cannot currently (or in the past) be a part of the DCAS organization.
- The DFO must have a general knowledge of occupational safety and health.
- The DFO must be familiar with NIOSH and its programs.
- The DFO must meet the qualifications of the FACA Law and Regulation.⁵

¹ 42 U.S.C. § 7384o; See also 42 U.S.C. § 7384n(d)(2).

² Exec. Order No. 13,179, 65 Fed. Reg. 77,487 (Dec. 11, 2000).

³ 5 U.S.C. App. 2.

⁴ GAO recommended that “To further enhance the independence of the President's Advisory Board on Radiation and Worker Health, the Secretary of HHS should implement the agency's regulatory responsibility under the Federal Advisory Committee Act to develop procedures to ensure that the advisory board's work is not unduly influenced by the appointing authority or any special interests. These procedures could include a provision specifying that federal officials who fill key board support roles must be independent of the dose reconstruction program.” U.S. Government Accountability Office, GAO-08-4, Energy Employees Compensation: Actions to Promote Contract Oversight, Transparency of Labor's Involvement, and Independence of Advisory Board Could Strengthen Program 41 (Oct. 2007).

⁵ 5 U.S.C. App. 2, and 41 C.F.R. pts. 101-6 and 102-3.

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- The DFO must meet the qualification and eligibility requirements to serve as a Contracting Officer Technical Representative (COTR, formerly called a “Project Officer”) since the technical support contract for the Advisory Board comprises a major part of the Advisory Board’s staffing.

The DFO will be selected by the NIOSH Director. Once the NIOSH Director has made a tentative selection, that selection will be vetted through the Office of General Counsel before it is finalized.

[Signature on file]

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