

Chapter 3

Committee Membership

1. What SBA policies govern membership?

This SOP, any amendments to it, and other written internal policy directives, govern advisory committee membership. In some cases there are also statutory requirements governing membership (See Chapter 6 for the statutory membership requirements regarding specific advisory committees). In addition, to the extent not inconsistent with this SOP, the DFO of each advisory committee may develop Advisory Committee Procedures dealing with membership and committee operations if the DFO thinks such supplemental guidance is appropriate (See Appendix 1 for a sample).

2. Who is eligible to serve on an advisory committee?

Advisory committee members generally represent a cross section of industries and entities with an interest in relevant small business issues across the Nation or within a local area. There is no requirement that members be U.S. citizens or resident aliens. For example, we may select the following individuals to serve on an advisory committee: business and community leaders, business owners, officials from trade associations and members from academic institutions devoted to the promotion of small business.

The following individuals are eligible for membership unless identified as disqualified for a specific advisory committee. See chapter 6 for details.

- a. Employees of state or local government,
- b. Holders of state or local elective public office,
- c. Federal employees, other than SBA employees, if the employee's ethics official provides a statement that no conflict of interest or appearance of a conflict of interest exists.
- d. Principals of associated entities which are applicants for or recipients of SBA assistance if SBA's Standards of Conduct Counselor, or a designee, gives prior written approval that no conflict of interest or appearance of a conflict of interest exists.

(1) For these purposes, who is a "principal of an associated entity?"

A principal can be a sole proprietor, general partner, managing member, officer, director, or an individual with a 10 percent or more equity interest in the associated entity, whether profit or non-profit, that has applied for or has received SBA assistance. Also included

are members of such principal's household as defined by 13 Code of Federal Regulations (CFR) § 105.201(d).

- (2) What types of SBA assistance require that the Standard of Conduct Counselor, or a designee, review a principal's nomination to serve on an advisory committee?

The Standard of Conduct Counselor, or a designee, must review the nomination if the associated entity has applied for or has received and is still performing or obligated under: a non-disaster business loan of any kind, whether direct or guaranteed; a surety bond guarantee; an SBA grant; a Small Business Investment Company (SBIC) license; New Markets Venture Capital (NMVC) approval; or an 8(a) sole source contract award. The nomination must also be reviewed if the entity, principal, or a member of the principal's household, is a party in a pending lawsuit which includes SBA as a party. Such review shall generally be completed within 15 workdays.

- (3) What types of SBA assistance to an associated entity prohibit a principal from serving on an advisory committee?

Pending applications for or recent recipients of 8(a) status, Small Disadvantaged Business (SDB) certification, HUBZone certification or a certificate of competency disqualify principals from serving on an advisory committee. "Recent" for these purposes means within 6 months of the nomination. If more than 6 months have passed since SBA approved the assistance, the Standards of Conduct Counselor, or a designee, will review the nomination on a case by case basis.

3. What general criteria does SBA use when selecting advisory committee members?

We at SBA balance committee membership by keeping in mind, at a minimum, the points of view represented by members or their respective organizations and the purposes each committee will pursue.

4. How does SBA appoint members to advisory committees?

The process for appointing members to advisory committees varies by committee. See chapter 6 for details.

5. What information must a nominee give to SBA before any appointment?

Before appointment to an advisory committee, the nominee must provide information including the following as part of completing the membership packet:

- a. Details of any SBA assistance that an entity associated with the nominee or a nominee's household member has received or is currently applying for. The

details must include the date the assistance was received and the current status of any obligation associated with the assistance (See chapter 3, paragraph 2.d. for more details),

- b. Character information as follows:
 - (1) Whether the nominee is presently under indictment, on parole or probation;
 - (2) Whether the nominee has ever been charged with or arrested for any criminal offense other than a minor motor vehicle violation, including offenses which have been dismissed or discharged; and
 - (3) Whether the nominee has ever been convicted, placed on pretrial diversion, or placed on any form of probation, including adjudication withheld pending probation, for any criminal offense other than a minor motor vehicle violation.
- c. Complete information regarding past or current formal relationships between the nominee and SBA, other than receipt of SBA assistance (e.g., contractor, SBA landlord, former SBA employee, and former SBA advisory committee member).
- d. Complete information regarding past or current disputes or litigation involving the nominee and SBA,
- e. Business information concerning the following:
 - (1) Suspension or debarment from Federal procurements;
 - (2) Suspension or debarment from non-procurement Federal assistance;
 - (3) Default on a Federal loan or Federally assisted financing;
 - (4) Suspension or revocation on conducting business with SBA under 13 C.F.R. § 103 or other SBA regulations;
 - (5) Suspension or revocation of a professional or business license; and
 - (6) Other circumstances which could be reasonably perceived as showing a lack of business integrity, such as a formal charge or finding by SBA of a failure to perform required responsibilities in connection with SBA assistance, or violations of SBA regulations or a civil judgment involving business conduct.

6. What is the membership structure for SBA advisory committees?

