Office of the Secretary of Defense
Directorate for Organizational and
Management Planning, ODA&M

TO: Mr. Rhodes

FROM: Regina F. Meiners 2/21/13

ADM00044613
221
JHC

SUBJECT: Missouri River (South Dakota) Charter Renewal and Approval of Membership Balance Plan

- Next under is a memorandum for your signature approving the Missouri River (South Dakota) Task Force charter renewal and the membership balance plan as required by GSA; this constitutes formal DoD approval.
  - The DA&M, by SD policy, is the approval authority for both documents.
  - Coordination with WHLO and OGC completed (Tab D).
  - ACMO will make GSA/Federal Register notifications.

- The Department of the Army's charter renewal request, dated June 20, 2012, was suspended pending a decision by the Office of the Governor of South Dakota to nominate tribal members to the Task Force.
  - The Governor ultimately chose to nominate tribal members; hence the charter renewal process resumed.
  - The next meeting of the Task Force was subsequently scheduled for Tues., February 26, 2013.

- This package contains:
  - Approval Memo (next under).
  - Tab A: Membership Balance Plan.
  - Tab B: Proposed 2012-2014 Charter.
  - Tab C: Department of the Army Memo, June 20, 2012, Renewal of Charter for the Missouri River (South Dakota) Task Force.
  - Tab D: Coordination.

- The POCs for this action are Jim Freeman, who is available at 703-692-5952 or James.Freeman@osd.mil and Jason Zaborski, who is available at 703-697-4553 or Jason.Zaborski.ctr@osd.mil.

OFFICE OF THE SECRETARY OF DEFENSE
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

ADMINISTRATION AND
MANAGEMENT

FEB 22 2013

MEMORANDUM FOR ADMINISTRATIVE ASSISTANT TO THE SECRETARY OF THE ARMY

SUBJECT: Missouri River (South Dakota) Task Force – Membership Balance Plan and Charter Renewal Approval

The membership balance plan (TAB A) and the renewed charter (TAB B) for the Missouri River (South Dakota) Task Force ("the Task Force") are approved. However, please be advised that changes to the Departmental Federal Advisory Committee Management Program, to include new policies on committee/subcommittee membership, structure, and governance, will be forthcoming and could affect the Task Force. In particular, the Secretary of Defense's October 9, 2012, memorandum on advisory committees directs that "we continually assess to ensure that they deliver appropriate value today and in the future as times and requirements change." As such, we recommend that you continually reevaluate the Task Force's functions and reduce, where appropriate, the Task Force's operating costs. A copy of the Task Force's charter will be provided to the Task Force and its Designated Federal Officer (DFO), once my Advisory Committee Management Officer (ACMO) files the charter with the Library of Congress, the Congressional oversight committees, and the General Services Administration.

As part of the charter renewal process, this office, in consultation with the Office of General Counsel of the Department of Defense (OGC DoD), has affirmed that the 29 individuals recommended for and appointed to the Task Force, as designated by the relevant statute, shall be appointed to serve as representative and regular government employee members, as appropriate.

Each representative member shall be notified, in writing, of the Secretary of the Army's approval decision. In preparing your appointment or renewal of appointment letters, the Task Force's DFO should consult the ACMO and OGC DoD, to include the Standards of Conduct Office. At a minimum, the letters shall contain the following:

(a) Notice that their appointment to serve on the Task Force is without compensation, with the exception of travel and per diem.

(b) A statement that they are appointed to serve as a regular government employee or representative member, as appropriate.

(c) An explanation of the difference between serving as special government employee and representative members.

(d) A summary of the applicable ethics requirements, to include whether they are required to file a Confidential Financial Disclosure Report.

As the Task Force's DoD Sponsor, you are responsible for:

(a) Ensuring that the Task Force's DFO attends all meetings of the Task Force and its subcommittees for the entire duration of each and every meeting.

(b) Ensuring that the DFO and the Task Force fully comply with all governing Federal statutes and regulations, to include DoD Instruction 5105.04, "Department of Defense Federal Advisory Committee Management Program."

(c) Ensuring that all Task Force and subcommittee work is based upon written tasks or terms of reference assigned to the Task Force by the Secretary of Defense, the Deputy Secretary of Defense, or you, as the DoD sponsor. All tasks or terms of reference are subject to public review and, at a minimum, shall include:

i. A description of the problem or policy to be analyzed and the DoD decision maker for the matter(s) under consideration.

ii. Authority for members of the Task Force or its subcommittees to access DoD officials and DoD data that is pertinent to the matter(s) under consideration.

iii. A budget limitation under which the Task Force or its subcommittees must operate.

iv. A date by which the Task Force must submit its written conclusions (advice and recommendations) to the DoD decision maker.

(d) Providing adequate support to the Task Force and its subcommittees, and ensuring that the members of the Task Force and its subcommittees are not unduly or inappropriately influenced by Federal employees or any special interest group.

(e) Ensuring that all visits to DoD installations or facilities by members of the Task Force are done in consultation with the Secretaries of the Military Departments or the Chairman of the Joint Chiefs of Staff, as appropriate.

(f) Ensuring that all members of the Task Force and its subcommittees are appointed according to DoD policy and procedures. No member will participate in any work by the Task Force or its subcommittees until all of the following have been completed: the member completes and submits to DoD all personnel and ethics paperwork required for his or her appointment; the appropriate DoD offices process the individual's personnel and ethics paperwork; and the individual takes the oath of office for his or her appointment.

(g) Ensuring that all DoD and other Federal agency documents provided to the Task Force or its subcommittees are properly marked according to governing statutes, regulations, and DoD policies and procedures.

(h) Monitoring the implementation status of any recommendation adopted by the DoD or Congress, and ensuring that this information is available for future inquiries.

If you should have any questions about the Department's program, the Federal governance and compliance requirements, the charter renewal, or the membership balance plan, please contact the ACMO, Mr. Jim Freeman at 703-692-5952, or by email at James.Freeman@osd.mil.

Michael L. Rhodes
Director

Attachments:
As stated

A

Membership Balance Plan
Missouri River (South Dakota) Task Force

Agency: Department of Defense (DoD)

1. Authority: The Secretary of Defense, under the provisions of Section 905(a) of Title IX, the Missouri River Restoration Act of 2000, Public Law 106-541, the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), and 41 C.F.R. § 102-3.50(a), established the Missouri River (South Dakota) Task Force ("the Task Force").

2. Mission/Function: The Task Force shall provide independent advice and recommendations to the Secretary of the Army on a plan and accompanying critical restoration projects to reduce siltation of the Missouri River in the State of South Dakota and to meet the objectives of the Pick-Sloan Program. Specifically, the Task Force shall:

   a. Prepare and approve, by a majority of the members, a plan for the use of the funds made available under Public Law 106-541, to promote conservation practices in the Missouri River watershed, control and remove the sediment from the Missouri River, protect recreation on the Missouri River from sedimentation, protect Indian and non-Indian historical and cultural sites along the Missouri River from erosion, erosion control along the Missouri River, or any combination of the activities just described;

   b. Develop and recommend to the Secretary of the Army for implementation, critical restoration projects meeting the goals of the plan; and

   c. Determine whether these critical restoration projects primarily benefit the Federal Government for purposes of cost-sharing.

3. Points of View: The Task Force, pursuant to Section 905(b) of Public Law 106-541, shall be composed of not more than 29 members. Specifically, the Task Force membership shall be composed of:

   a. Secretary of the Army or designee, who shall serve as the Chairperson;

   b. Secretary of Agriculture or designee;

   c. Secretary of Energy or designee;

   d. Secretary of the Interior or designee; and

   e. The Trust. The Trust is composed of 25 members to be appointed by the Secretary of the Army, including:

      i. 15 members recommended by the Governor of South Dakota that:
         1. represent equally the various interests of the public; and
         2. include representatives of:
            a. the South Dakota Department of Environment and Natural Resources;
            b. the South Dakota Department of Game, Fish, and Parks;
            c. environmental groups;

d. the hydroelectric power industry;
e. local governments;
f. recreation user groups;
g. agricultural groups; and
h. other appropriate interests.

ii. Nine members, one of each of whom shall be recommended by each of the nine Indian Tribes in the State of South Dakota; and

iii. One member recommended by the organization known as the "Three Affiliated Tribes of North Dakota" (composed of the Mandan, Hidatsa, and Arikara tribes).

The members of the Trust shall be appointed by the Secretary of the Army as representative members to the Task Force.

4. Other Balance Factors: N/A

5. Candidate Identification Process: Pursuant to Section 904 of Public Law 106-541, the Governor of South Dakota shall recommend 15 members to the Secretary of the Army for appointment to the Trust. In addition, the nine Indian tribes in the State of South Dakota and the organization known as the "Three Affiliated Tribes of North Dakota" shall each recommend one member to the Secretary of the Army for appointment to the Trust. Prior to the formal nomination, the list of potential nominees undergoes a review by the Army General Counsel and the Office of the Advisory Committee Management Officer to ensure compliance with statute, as well as Federal and DoD governance requirements; for example, compliance with the advisory committee's charter and the membership balance plan. All representative members of the Task Force shall be appointed for a two-year term of service; however, no members, unless authorized by the Secretary of the Army, may serve more than two consecutive terms of service.

6. Subcommittee Balance: DoD, when necessary, and consistent with the Task Force's mission and DoD policies and procedures, may establish subcommittees, task groups, or working groups to support the Task Force.

The Secretary or the Deputy Secretary of Defense shall approve the appointment of subcommittee members for a two-year term of service with annual renewals; however, no member, unless authorized by the Secretary of Defense, may serve more than two consecutive terms of service. These individuals may come from the Task Force or may be new nominees, as recommended by the Secretary of the Army and based upon the subject matters under consideration.

Subcommittee members, if not full-time or part-time Government employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. § 3109, and shall serve as special government employee members, whose appointments must be renewed by the Secretary of the Army, in consultation with the Secretary of Defense, on an annual basis. With the exception of travel and per diem for official travel related to the Task Force or its subcommittees, subcommittee members shall serve without compensation.

Each subcommittee member is appointed to provide advice to the Government on the basis of his or her best judgment without representing any particular point of view an in a manner that is free from conflict of interest.

7. Other: As nominees are considered for appointment to the Task Force, the DoD adheres to the Office of Management and Budget's Final Guidance on Appointment of Lobbyists to Federal Boards and Commissions (76 F.R. 61756; October 5, 2011) and the rules and regulations issued by the Office of Government Ethics.

8. Date Prepared:

B

Charter
Missouri River (South Dakota) Task Force

1. Committee's Official Designation: The Committee shall be known as the Missouri River (South Dakota) Task Force ("the Task Force").

2. Authority: The Secretary of Defense, under the provisions of Section 905(a) of Title IX, the Missouri River Restoration Act of 2000, Public Law 106-541, the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), and 41 C.F.R. § 102-3.50(a), established the Task Force.

3. Objectives and Scope of Activities: The Task Force shall provide independent advice and recommendations on a plan and accompanying critical restoration projects to reduce siltation of the Missouri River in the State of South Dakota and to meet the objectives of the Pick-Sloan Program, as set out in Section 905 of the Missouri River Restoration Act of 2000 and in paragraph four below.

4. Description of Duties: The Task Force shall provide independent advice and recommendations to the Secretary of the Army on a plan and accompanying critical restoration projects to reduce siltation of the Missouri River in the State of South Dakota and to meet the objectives of the Pick-Sloan Program. Specifically, the Task Force shall:

   a. Prepare and approve, by a majority of the members, a plan for the use of the funds made available under Public Law 106-541, to promote conservation practices in the Missouri River watershed, control and remove the sediment from the Missouri River, protect recreation on the Missouri River from sedimentation, protect Indian and non-Indian historical and cultural sites along the Missouri River from erosion, erosion control along the Missouri River, or any combination of the activities just described;

   b. Develop and recommend to the Secretary of the Army for implementation, critical restoration projects meeting the goals of the plan; and

   c. Determine whether these critical restoration projects primarily benefit the Federal Government for purposes of cost-sharing.

5. Agency or Official to Whom the Committee Reports: The Task Force shall report to the Secretary of the Army. The Secretary of the Army may act upon the Task Force's advice and recommendations.

6. Support: The Department of Defense (DoD), through the Secretary of the Army, the Assistant Secretary of the Army for Civil Works, and the U.S. Army Corps of Engineers, shall provide support, as deemed necessary, for the performance of the Task Force's functions and shall ensure compliance with the requirements of FACA, the Government in the Sunshine Act of 1976 (5 U.S.C. § 552b, as amended) ("the Sunshine Act"), governing Federal statutes and regulations, and established DoD policies and procedures.

7. Estimated Annual Operating Costs and Staff Years: The estimated annual operating cost, to include travel, meetings, and contract support, is approximately $56,000.00. The estimated annual personnel cost to the DoD is 0.5 full-time equivalents.

8. Designated Federal Officer: The Task Force's Designated Federal Officer (DFO), pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed, in accordance with established DoD policies and procedures.

   The Task Force's DFO is required to be in attendance at all meetings of the Task Force and its subcommittees for the entire duration of each and every meeting. However, in the absence of the Task Force's DFO, a properly approved Alternate DFO, duly appointed to the Task Force according to DoD policies and procedures, shall attend the entire duration of all meetings of the Task Force or its subcommittees.

   The DFO, or the Alternate DFO, shall call all of the Task Force's and subcommittees meetings; prepare and approve all meeting agendas; and adjourn any meeting when the DFO, or the Alternate DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies and procedures.

9. Estimated Number and Frequency of Meetings: The Task Force shall meet at the call of the Task Force's DFO, in consultation with the Chairperson. The estimated number of meetings by the Task Force is no less than two per year.

10. Duration: The need for this advisory function is on a continuing basis; however this charter is subject to renewal every two years.

11. Termination: The Task Force shall terminate upon repeal of the statutory authority requiring the establishment of the Task Force, Section 905(a) of Title IX, the Missouri River Restoration Act of 2000, Public Law 106-541.

12. Membership, Designation, and Compensation: The Task Force, pursuant to Section 905(b) of the Missouri River Restoration Act of 2000, shall be composed of not more than 29 members. Specifically, the Task Force membership shall be composed of:

    a. Secretary of the Army or designee, who shall serve as the Chairperson;

    b. Secretary of Agriculture or designee;

    c. Secretary of Energy or designee;

    d. Secretary of the Interior or designee; and

    e. The Trust. The Trust is composed of 25 members to be appointed by the Secretary of the Army, including:

       i. 15 members recommended by the Governor of South Dakota that:
          1. represent equally the various interests of the public; and
          2. include representatives of:
             a. the South Dakota Department of Environment and Natural Resources;
             b. the South Dakota Department of Game, Fish, and Parks;

c. environmental groups;
d. the hydroelectric power industry;
e. local governments;
f. recreation user groups;
g. agricultural groups; and
h. other appropriate interests.

ii. Nine members, one of each of whom shall be recommended by each of the nine Indian Tribes in the State of South Dakota; and

iii. One member recommended by the organization known as the "Three Affiliated Tribes of North Dakota" (composed of the Mandan, Hidatsa, and Arikara tribes).

The members of the Trust shall be appointed by the Secretary of the Army as representative members to the Task Force.

All representative members of the Trust shall be appointed for a two-year term of service; however, no member, unless authorized by the Secretary of the Army, may serve more than two consecutive terms of service. In addition, all Task Force members shall, with the exception of travel and per diem for official travel, serve without compensation.

13. Subcommittees: DoD, when necessary and consistent with the Task Force's mission and DoD policies and procedures, may establish subcommittees, task groups, and working groups to support the Task Force. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the Secretary of the Army, as the DoD Sponsor.

Such subcommittees shall not work independently of the Task Force and shall report all their recommendations and advice solely to the Task Force for full deliberation and discussion. Subcommittees, task groups, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Task Force. No subcommittee or any of its members can update or report, verbally or in writing, on behalf of the Task Force, directly to DoD or any Federal officer or employee.

The Secretary or the Deputy Secretary of Defense may approve the appointment of subcommittee members for a two-year term of service with annual renewals; however, no member, unless authorized by the Secretary of Defense, may serve more than two consecutive terms of service. These individuals may come from the Task Force or may be new nominees, as recommended by the Secretary of the Army and based upon the subject matters under consideration.

Subcommittee members, if not full-time or part-time Government employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. § 3109, and shall serve as special government employee members, whose appointments must be renewed by the Secretary of the Army, in consultation with the Secretary of Defense, on an annual basis. With the

exception of travel and per diem for official travel related to the Task Force or its subcommittees, subcommittee members shall serve without compensation.

Each subcommittee member is appointed to provide advice to the Government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

All subcommittees, task groups, or working groups operate under the provisions of FACA, the Sunshine Act, governing Federal statutes and regulations, and established DoD policies and procedures.

14. Recordkeeping: The records of the Task Force and its subcommittees shall be handled according to Section 2, General Records Schedule 26, and governing DoD policies and procedures. These records shall be available for public inspection and copying, subject to the Freedom of Information Act of 1966 (5 U.S.C. § 552, as amended).

15. Filing Date:

C

DEPARTMENT OF THE ARMY
ADMINISTRATIVE ASSISTANT TO THE SECRETARY OF THE ARMY
105 ARMY PENTAGON
WASHINGTON DC 20310-0105

20 JUN 2012

MEMORANDUM THRU ADVISORY COMMITTEE MANAGEMENT OFFICER FOR THE DEPARTMENT OF DEFENSE

FOR DIRECTOR, ADMINISTRATION AND MANAGEMENT, OFFICE OF THE SECRETARY OF DEFENSE

SUBJECT: Renewal of Charter for the Missouri River (South Dakota) Task Force

1. Request renewal of the charter for the Missouri River (South Dakota) Task Force, which expires on 25 October 2012. Authorized by Section 905 of Title IX, the Missouri River Restoration Act of 2000, Public Law 106-541, the Task Force is a Department of Defense Federal advisory committee sponsored by the Secretary of the Army. Recommend approval to continue the committee.

2. The Task Force's Designated Federal Officer proposes the following updates to the charter:

- Reduce estimated annual operating costs from $250,000 to $56,000.
- Reduce estimated Department of Defense full-time equivalents from 1.0 to 0.5.

3. The justification memorandum for the Task Force is enclosed for your consideration. The document meets the criteria in Department of Defense Instruction 5105.04 (Department of Defense Federal Advisory Committee Management Program), E3.4.6.2.1.

4. My point of contact for this action is Hok Lim, 703-545-0650 or hok.lim.civ@mail.mil.

Joyce E. Morrow
JOYCE E. MORROW

Encl

D

COORDINATION SHEET

Missouri River (South Dakota) Task Force – Charter Renewal and Membership Balance Plan

Advisory Committee Management Officer (ACMO)

DoD-Wide FACA Attorney to DA&M & ACMO

SATSD(WHLO)

POC: Jason Zaborski/Jason.zaborski.ctr@osd.mil/703-697-4553