**Membership Balance Plan**
**Whistleblower Protection Advisory Committee**
**Occupational Health and Safety Administration**
**U.S. Department of Labor**

**1. Name.** Whistleblower Protection Advisory Committee (WPAC).

**2. Authority.** The WPAC is established under Agency authority in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. The U.S. Secretary of Labor, in consultation with the Assistant Secretary for Occupational Safety and Health, has determined that the WPAC is "in the public interest in connection with the performance of duties imposed on that agency by law (FACA (5 U.S.C. App. § 9(a)(2))." More specifically, the Committee will assist the Occupational Safety and Health Administration (OSHA) in performing its duties and responsibilities under the 21 statutes that currently contain whistleblower protections.

**3. Mission/Function.** The purpose of the Committee is to provide OSHA with recommendations related to: the development and/or implementation of: better customer service to both workers who raise complaints and employers who are the subject of investigations; improvement in the training of OSHA investigators; improvement in the investigative and enforcement process; improvement of regulations governing OSHA investigations; and cooperative activities with federal agencies responsible for areas also covered by the whistleblower protection statutes enforced by OSHA.

**4. Points of View.** The Committee shall consist of up to 12 representative members with a demonstrated expertise and interest in improving the whistleblower complaint process, ensuring that OSHA conducts its whistleblower investigations fairly and efficiently. In order to ensure a balanced point of view, the Committee will include an equal number of labor and management representatives. The labor representative category is comprised of four workers, labor unions, and/or worker advocacy organizations that are the source of complaints. The management representative category is comprised of four employers and/or employer associations in industries who are the subject of investigations. In addition, since 27 states and territories operate their own OSHA-approved State Plans and enforce whistleblower provisions 11(c) related to the Occupational and Safety and Health Act 1970 in those states, one representative from the State Plan states will be included on the Committee. Finally, to assure that the Agency can draw upon public representatives who have extensive knowledge, experience and expertise on whistleblower issues, the Committee will also include three public representatives from colleges, universities, non-partisan think tanks, and/or other entities with substantial knowledge of and experience with whistleblower issues.

The Committee will also be informed by the inclusion of ex-officio/non-voting regular government employee representatives from other: 1) Department of Labor (DOL) agencies that are directly or indirectly involved in worksite investigations, such as DOL's Wage and Hour Division and 2) Federal Government agencies that have jurisdiction over statutes with whistleblower provisions will also be asked to participate; for example, the Securities and Exchange Commission (Sarbanes-Oxley Act) and the Department of Transportation's Federal

Aviation Administration (Wendell H. Ford Aviation Investment and Reform Act for the 21st Century).

**5. Other Balance Factors.** Membership on the WPAC will be fairly balanced. Members will come from a cross-section of those directly affected, interested, and qualified as appropriate to the nature and functions of the WPAC.

The composition of the Committee will depend upon several factors, including i) the Committee's mission; ii) the geographic, ethnic, social, economic, or scientific impact of the advisory committee's recommendations; iii) the types of specific perspectives required, for example, those of consumers, technical experts, the public at-large, academia, business, or other sectors; iv) the need to obtain divergent points of view on the issues before the Committee; and v) the relevance of State, local or tribal governments to the development of the Committee's recommendations.

To the extent permitted by FACA and other laws, Committee membership should also be consistent with achieving the greatest impact, scope and credibility among diverse stakeholders. The diversity in such membership includes, but is not limited to, race, gender, disability, sexual orientation and gender identity.

**6. Candidate Identification Process.** The Agency will employ a multi-faceted approach to inform the general public as well as the Department's workforce regarding vacancies on the Committee and the period and requirements for submitting nominations. The following steps are among those that the Agency will take to solicit a broad and diverse range of qualified candidates. The Agency will submit a public notice announcing the number of vacancies, the requirements for submitting nominations to the Agency, as well as the period for submitting nominations. Specifically, the Agency will publish a request for nominations in the Federal Register (FR); promote this request on the home page of the DOL's website (www.dol.gov) and OSHA's website (www.osha.gov) during the entire period that the notice is included in the FR; publicize this request in DOL's weekly e-newsletter and OSHA's bi-weekly e-newsletter, "Quick Takes"; and issue a press release with national distribution.

To promote widespread notification of these vacancies, the Agency will also work with other agencies in the Department of Labor, other government agencies, and with diverse stakeholders throughout the country, including professional organizations, academia, and individuals, such as current and past members of the other four OSHA Committees: the National Advisory Committee on Safety and Health, Federal Advisory Council on Safety and Health, Advisory Committee on Construction Safety and Health, and the Maritime Advisory Committee on Safety and Health. The Agency's outreach will include notification to those who have historically had limited awareness of and participation in the Committee and its activities but whose interests may be implicated or affected by the work and/or recommendations of the Committee.

A review team comprised of the Assistant Secretary for OSHA and the Office of Whistleblower Protection Programs will evaluate the nominations and proposed candidates for membership for the Secretary's approval that can fulfill the purpose of the Committee, and which is balanced, in accordance with the Balance Factors and Points of View identified above. The review team will

**Membership Balance Plan**
**Whistleblower Protection Advisory Committee**
**Occupational Health and Safety Administration**
**U.S. Department of Labor**

**1. Name.** Whistleblower Protection Advisory Committee (WPAC).

**2. Authority.** The WPAC is established under Agency authority in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. The U.S. Secretary of Labor, in consultation with the Assistant Secretary for Occupational Safety and Health, has determined that the WPAC is "in the public interest in connection with the performance of duties imposed on that agency by law (FACA (5 U.S.C. App. § 9(a)(2))." More specifically, the Committee will assist the Occupational Safety and Health Administration (OSHA) in performing its duties and responsibilities under the 21 statutes that currently contain whistleblower protections.

**3. Mission/Function.** The purpose of the Committee is to provide OSHA with recommendations related to: the development and/or implementation of: better customer service to both workers who raise complaints and employers who are the subject of investigations; improvement in the training of OSHA investigators; improvement in the investigative and enforcement process; improvement of regulations governing OSHA investigations; and cooperative activities with federal agencies responsible for areas also covered by the whistleblower protection statutes enforced by OSHA.

**4. Points of View.** The Committee shall consist of up to 12 representative members with a demonstrated expertise and interest in improving the whistleblower complaint process, ensuring that OSHA conducts its whistleblower investigations fairly and efficiently. In order to ensure a balanced point of view, the Committee will include an equal number of labor and management representatives. The labor representative category is comprised of four workers, labor unions, and/or worker advocacy organizations that are the source of complaints. The management representative category is comprised of four employers and/or employer associations in industries who are the subject of investigations. In addition, since 27 states and territories operate their own OSHA-approved State Plans and enforce whistleblower provisions 11(c) related to the Occupational and Safety and Health Act 1970 in those states, one representative from the State Plan states will be included on the Committee. Finally, to assure that the Agency can draw upon public representatives who have extensive knowledge, experience and expertise on whistleblower issues, the Committee will also include three public representatives from colleges, universities, non-partisan think tanks, and/or other entities with substantial knowledge of and experience with whistleblower issues.

The Committee will also be informed by the inclusion of ex-officio/non-voting regular government employee representatives from other: 1) Department of Labor (DOL) agencies that are directly or indirectly involved in worksite investigations, such as DOL's Wage and Hour Division and 2) Federal Government agencies that have jurisdiction over statutes with whistleblower provisions will also be asked to participate; for example, the Securities and Exchange Commission (Sarbanes-Oxley Act) and the Department of Transportation's Federal

Aviation Administration (Wendell H. Ford Aviation Investment and Reform Act for the 21st Century).

**5. Other Balance Factors.** Membership on the WPAC will be fairly balanced. Members will come from a cross-section of those directly affected, interested, and qualified as appropriate to the nature and functions of the WPAC.

The composition of the Committee will depend upon several factors, including i) the Committee's mission; ii) the geographic, ethnic, social, economic, or scientific impact of the advisory committee's recommendations; iii) the types of specific perspectives required, for example, those of consumers, technical experts, the public at-large, academia, business, or other sectors; iv) the need to obtain divergent points of view on the issues before the Committee; and v) the relevance of State, local or tribal governments to the development of the Committee's recommendations.

To the extent permitted by FACA and other laws, Committee membership should also be consistent with achieving the greatest impact, scope and credibility among diverse stakeholders. The diversity in such membership includes, but is not limited to, race, gender, disability, sexual orientation and gender identity.

**6. Candidate Identification Process.** The Agency will employ a multi-faceted approach to inform the general public as well as the Department's workforce regarding vacancies on the Committee and the period and requirements for submitting nominations. The following steps are among those that the Agency will take to solicit a broad and diverse range of qualified candidates. The Agency will submit a public notice announcing the number of vacancies, the requirements for submitting nominations to the Agency, as well as the period for submitting nominations. Specifically, the Agency will publish a request for nominations in the Federal Register (FR); promote this request on the home page of the DOL's website (www.dol.gov) and OSHA's website (www.osha.gov) during the entire period that the notice is included in the FR; publicize this request in DOL's weekly e-newsletter and OSHA's bi-weekly e-newsletter, "Quick Takes"; and issue a press release with national distribution.

To promote widespread notification of these vacancies, the Agency will also work with other agencies in the Department of Labor, other government agencies, and with diverse stakeholders throughout the country, including professional organizations, academia, and individuals, such as current and past members of the other four OSHA Committees: the National Advisory Committee on Safety and Health, Federal Advisory Council on Safety and Health, Advisory Committee on Construction Safety and Health, and the Maritime Advisory Committee on Safety and Health. The Agency's outreach will include notification to those who have historically had limited awareness of and participation in the Committee and its activities but whose interests may be implicated or affected by the work and/or recommendations of the Committee.

A review team comprised of the Assistant Secretary for OSHA and the Office of Whistleblower Protection Programs will evaluate the nominations and proposed candidates for membership for the Secretary's approval that can fulfill the purpose of the Committee, and which is balanced, in accordance with the Balance Factors and Points of View identified above. The review team will

review all proposed candidates through the Department's internal vetting process to assure compliance with all legal and ethical requirements. The review team will also propose a Chair of the WPAC for the Secretary's approval. The proposed membership of the WPAC will be submitted for formal Departmental clearance, which requires in-depth review by and consultation with other worker protection agencies, the Office of the Secretary, and other relevant DOL agencies. Members will be appointed for terms of two years, and any vacancies during the term of appointment will be filled as soon as feasible using the candidate identification process noted above.

The Agency will report on its efforts to the Committee and the Secretary or her designee.

**7. Subcommittee Balance.** The process for determining balance on subcommittees is the same as the process for the parent Committee.

**8. Other.** Membership adheres to the Obama Administration's prohibition against the inclusion of federally registered lobbyists.

**9. Date Prepared/Updated:** April 2012