

**THE PRESIDENT’S NATIONAL INFRASTRUCTURE  
ADVISORY COUNCIL  
BYLAWS**

DATE: December 15, 2023

**Article I      Authority**

Section 1.      The President's National Infrastructure Advisory Council (NIAC) is established under the authority of Executive Order (EO) 13231, *Critical Infrastructure Protection in the Information Age*, Section 10, dated October 16, 2001, as amended and continued under the authority of EO 14109, effective September 30, 2023. The NIAC (the Council) shall be organized and operate in accordance with the Federal Advisory Committee Act (FACA), as amended (Title 5, United States Code [U.S.C.] Chapter 10); EO 13231, as amended; other presidential directives; the NIAC Charter; and these bylaws.

Section 2.      The provisions of the FACA, as amended (5 U.S.C., Chapter 10), EO 13231, as amended, and the NIAC Charter shall govern in the event of any conflict between the provisions thereof and these bylaws.

**Article II      Purpose**

The NIAC provides the President of the United States (President) with advice and recommendations, through the Secretary of Homeland Security (Secretary), on the security and resilience of the Nation’s Critical Infrastructure sectors and their supporting functional systems as described in Presidential Policy Directive 21. These critical infrastructure sectors span the U.S. economy and include the Food and Agriculture, Financial Services, Transportation, Chemical, Commercial Facilities, Critical Manufacturing, Dams, Defense Industrial Base, Nuclear, Government Facilities, Communications, Information Technology, Healthcare and Public Health, Water, Energy, and Emergency Services Sectors. The NIAC also advises the lead Sector Risk Management Agencies that have critical infrastructure responsibilities. Specifically, the Council has been charged with making recommendations to:

- a. Enhance the partnership between the public and private sectors in securing and enhancing the security and resilience of critical infrastructure and their functional systems, physical assets and cyber networks, and providing reports on this issue to the President through the Secretary, as appropriate;
- b. Propose and develop ways to encourage private industry to perform periodic risk assessments and implement risk reduction programs;
- c. Monitor the development and operations of critical infrastructure sector coordinating councils and their information sharing mechanisms and provide recommendations to the President through the Secretary on how these organizations can best foster improved cooperation among the sectors, the Department of Homeland Security (DHS), and other Federal Government entities;

- d. Report to the President through the Secretary who shall ensure appropriate coordination with the Assistant to the President for Homeland Security and Deputy National Security Advisor, the Assistant to the President for Economic Policy, and the Assistant to the President for National Security Affairs; and,
- e. Advise Sector Risk Management agencies with critical infrastructure responsibilities, to include issues pertaining to sector and government coordinating councils and their information sharing mechanisms.

### **Article III Membership and Member Responsibilities**

Section 1. Composition. The NIAC shall be composed of no more than 30 members and are appointed by and serve at the pleasure of the President. In order for the NIAC to fully leverage broad-ranging experience and education, the NIAC must be diverse with regard to professional, and technical expertise. The President should also pursue opportunities, consistent with applicable law, to compose a Council that reflects the diversity of the nation's people. The members of the NIAC shall be selected from the private sector, including individuals with experience in banking and finance, transportation, energy, water, communications, health care services, food and agriculture, government facilities, emergency services organizations, institutions of higher education, environmental and climate resilience, and State, local, and tribal governments; with senior executive leadership responsibilities for the availability and reliability, including security and resilience, of critical infrastructure sectors. NIAC members shall have expertise relevant to the functions of the NIAC and with experience equivalent to that of a chief executive of an organization (or equivalently ranked leaders in other organizations) with responsibilities for the security of functional infrastructure systems supporting the critical sectors of the economy. These members shall consist of subject matter experts from diverse and appropriate professions and communities nationwide, be geographically balanced, and shall include representatives with a broad and inclusive range of industries. NIAC members may not be full-time officials or employees of the executive branch of the Federal Government but serve as Representatives with expertise in the critical infrastructure sectors and industries.

Section 2. Terms of Office. The members of the NIAC serve at the pleasure of the President with no fixed term of office. Vacancies in the NIAC membership are filled as they occur through the presidential appointment process as determined by the Presidential Personnel Office. In the event the Council terminates, all appointments to the Council shall terminate.

Section 3. Security Clearances. All members of the Council are required to have a government security clearance at the Top Secret/Sensitive Compartmented Information (TS/SCI) level, to ensure that they can fully participate in any classified activities. If a member does not possess a security clearance at the time he or she is appointed, the Department of Homeland Security (DHS) will sponsor the member for a TS/SCI clearance.

Section 4. Members' Responsibilities. Because the membership of the NIAC is constructed to balance as many viewpoints as possible, member attendance and participation at meetings is vital. Members are expected to personally attend and participate at Council and Subcommittee meetings. The DFO shall track and report to the Presidential Personnel Office annually the fulfillment of members' responsibilities to the Council and recommend replacement of any member who is unable to do so.

Members of the NIAC may be recommended for removal for reasons such as, but not limited to:

- a. Failure to obtain an appropriate security clearance.
- b. Missing three consecutive public meetings or not participating in the Council's work.
- c. Engaging in activities that are illegal or violate the restrictions on members' activities as outlined below.

Section 5. Restriction on Members' Activities.

- a. Members may not use their access to the federal government as a member of this Council for the purpose of soliciting business or otherwise seeking economic advantage for themselves or their companies. Members may not use any non-public information obtained in the course of their duties as a member for personal gain or for that of their company or employer. Members must hold any non-public information in confidence including, but not limited to, draft reports, draft letters, subcommittee materials, or other pre-decisional documents.
- b. The Council may advise the President, through the Secretary, on legislation or recommend legislative action. In their capacities as members of the NIAC, individual members may not petition or lobby Congress for or against specific legislation or encourage others to do so.
- c. Members of the NIAC are advisors to the President and have no authority to speak for the President, the NIAC, the Cybersecurity and Infrastructure Security Agency (CISA), or DHS.
- d. Members may not testify before Congress in their capacity as a member of the NIAC. If requested to testify before Congress in any capacity other than as a member, members of the NIAC:
  1. Cannot represent or speak for the Council, DHS, any agency, or the President in their testimony;
  2. Cannot provide information or comment on Council recommendations that are not yet publicly available;
  3. May state they are a member of the Council; and
  4. May speak to their personal observations as to their service on the Council.
- e. When speaking outside the Council structure at other forums or meetings, the restrictions in section (d) also apply.

## **Article IV Officials**

- Section 1. Chairperson and Vice Chairperson. The President designates a Chair and Vice Chair from among the Council members for a term of up to two years.. The NIAC Chair will preside at all NIAC meetings. The Vice Chair will preside in the absence of the Chair. The Chair and Vice Chair are expected to facilitate Council meetings and moderate all Council deliberations. The duties of the Chair and Vice Chair can also include:
- a. As permitted by law, inviting heads of executive branch departments and agencies to provide the NIAC with information and advice related to its functions; and
  - b. As deemed appropriate in conjunction with the DFO, inviting Senior Federal Government Officials to attend NIAC business meetings.
- Section 2. Designated Federal Officer. The Designated Federal Officer (DFO) and Alternate DFOs (ADFO) are appointed by the CISA Director and serve as CISA’s agent for all matters related to the NIAC. In accordance with the provisions of the FACA, the DFO, or ADFO in the DFO’s absence, must:
- a. Administer NIAC meetings by:
    - i. Approving or calling meetings of the Council and its subcommittees;
    - ii. Approving agendas for Council and subcommittee meetings;
    - iii. Attending all meetings; and
    - iv. Adjourning meetings when such adjournment is in the public interest;
  - b. Chair meetings of the Council in the absence of the designated NIAC Chair and Vice Chair;
  - c. Review Council membership to ensure elements of the critical infrastructure industries are represented in a balanced manner;
  - d. Assure that administrative support functions are performed, including the following:
    - i. Notifying members of the time and place of each meeting;
    - ii. Tracking all recommendations of the NIAC;
    - iii. Coordinating with CISA and other Government stakeholders to propose a work plan for the NIAC to the Executive Office of the President (EOP);
    - iv. Maintaining members’ attendance records;
    - v. Preparing the minutes of all meetings of the NIAC's deliberations, including subcommittee activities;
    - vi. Attending to official correspondence including preparing and handling all Council reports/letters, including the annual report required by FACA;
    - vii. Maintaining official records and filing all papers and submissions prepared for or by the NIAC, including those items generated by subcommittees or working groups;

- viii. Reviewing, updating, and certifying information on NIAC activities in the General Services Administration Shared Management System (FACA database) on Council and subcommittee meetings, member appointments, and results delivered;
- ix. Acting as the NIAC's agent to collect, validate, and pay all vouchers for pre-approved expenditures; and
- x. Preparing and handling all NIAC operational results as required by FACA.

## **Article V Meeting Procedures**

- Section 1. Meeting Schedule and Call of Meetings. The NIAC will meet at a minimum of once per year. Additional meetings may be scheduled, pending approval from the DFO or ADFO. The DFO or ADFO must attend all Council and subcommittee meetings, adjourn any meeting when it is determined adjournment to be in the public interest, and chair meetings when the Chair and Vice Chair are both absent, or when requested to do so by CISA or National Security Council leadership.
- Section 2. Agenda. The DFO, in consultation with the NIAC Chair and Vice Chair, develops and approves the agenda for all Council and subcommittee meetings. The DFO or ADFO distributes the agenda to members prior to the meeting, and publishes the agenda in the Federal Register.
- Section 3. Quorum. A quorum of the NIAC is required to vote on issues being addressed by the Council. A quorum for the NIAC is fifty percent plus one of the Council members currently appointed.
- Section 4. Voting Procedures. Only members of the NIAC may vote on Council matters. For matters requiring a vote of the NIAC, the Chair calls for a motion, requests a second for the motion, and then calls for the members to vote for or against the motion after appropriate deliberation. Votes cannot be conducted by proxy or by paper votes. All matters requiring a vote by the NIAC are recorded in the official minutes of the meeting.
- Section 5. Minority Reports. Any NIAC member who dissents from the Council's decision to approve a report or letter may submit a minority report expressing their disagreement to the DFO. The DFO will attach the minority report to the majority report to be transmitted to the President.
- Section 6. Minutes. The DFO prepares the minutes of each meeting and distributes copies to each Council member. Minutes of open meetings are available to the public on the NIAC website ([www.dhs.gov/niac](http://www.dhs.gov/niac)). Minutes of closed meetings will also be available to the public upon request subject to the withholding of matters that are exempt from disclosure under the *Freedom of Information Act*

(FOIA) (5 U.S.C. Subsection 552).

The minutes will include a record of:

- a. The time, date, and place of the meeting;
- b. A list of all attendees, including members, staff, and public participants;
- c. An accurate description of each matter discussed and the resolution, if any, made by the NIAC;
- d. Copies of reports or other documents received, issued, or approved by the NIAC; and
- e. An accurate description of public participation, including oral and written statements provided.

The DFO assures that the Chair certifies the minutes within 90 calendar days of the meeting to which they relate.

Section 7. Open Meetings. Unless otherwise determined in advance, all meetings of the full NIAC shall be open and announced to the public in a notice published in the Federal Register at least 15 calendar days before the meeting. Members of the public may attend any meeting or portion of a meeting that is not closed to the public and may, at the determination of the DFO, offer oral comment on agenda items at such meetings. Meetings will include a period for oral comments unless it is clearly inappropriate to do so. Members of the public may also submit written statements to the NIAC. All meeting materials provided to the Council shall be available to the public and such materials, including any submissions by members of the public, are part of the meeting record.

Section 8. Closed Meetings. All or part(s) of a NIAC meeting may be closed in limited circumstances and in accordance with applicable law. A determination must be made by the CISA Director that the meeting should be closed in accordance with DHS policy and the *Government in the Sunshine Act* (5 U.S.C. § 552b). Where the DFO has determined in advance that discussion during a Council meeting will involve matters about which public disclosure would be harmful to the interests of the government, industry, or others, an advance notice of a closed meeting, citing the applicable exemptions set forth in 5 U.S.C. § 552b, will be published in the Federal Register. The notice may announce the closing of all or part(s) of a meeting. If, during an open meeting, matters inappropriate for public disclosure arise during discussions, the DFO or Chair will order such discussion to cease and will schedule a future meeting of the Council that will be approved for closure. No meeting or portion of a meeting may be closed without prior approval and notice published in the Federal Register at least 15 calendar days in advance. Closed meetings may only be attended by the DFO, Council members, cleared NIAC staff, and appropriate subject matter experts and federal government officials invited to provide subject matter expertise related to agenda items. Presenters must leave immediately after giving their presentation and answering any questions.

## **Article VI Expenses and Reimbursements**

Members are not compensated for their work on the NIAC, but shall, upon request and subject to available funding, be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons serving intermittently in the Government service. CISA is responsible for providing financial and administrative support to the NIAC. All expenditures for Council activities must be approved in advance by the DFO. CISA will be responsible for processing travel reimbursements for the NIAC.

## **Article VII Administration**

CISA will provide administrative and technical support to the Committee and assist in carrying out the administrative functions of the DFO as outlined in Article IV, Section 2 of these bylaws.

## **Article VIII Subcommittees**

Subcommittees may only be established with the approval of the DFO. Subcommittee members may be composed in part or in whole of individuals who are not NIAC members. Subcommittees will be stood up as needed and terminate when the work is completed. The DFO may consult with NIAC members to determine the appropriate participants for each tasking. The DFO will invite the selected individuals to serve on the subcommittee and advise them that their terms of service will expire when the tasking is completed. If appropriate, and for a specified tasking, subcommittee members may be required to hold a security clearance to serve on a subcommittee. Subcommittee members will reflect balanced viewpoints for the subject matters. All subcommittee discussions and materials, including briefings, outlines, and reports, are considered pre-decisional working drafts, and shall not be made publicly available. Subcommittees have no authority to make decisions or to arrive at a consensus for/on behalf of NIAC and may not report or provide advice or recommendations directly to the Federal Government or any other entity other than the NIAC. Once the tasking has been examined by a subcommittee, the subcommittee must present its work to the NIAC for full deliberation and discussion. Once a letter or report is provided to the NIAC for deliberation and vote, the document must be released publicly.

## **Article IX Recordkeeping**

The DFO maintains all records of the NIAC in accordance with the *Presidential Records Act of 1978* (44 U.S.C. §§ 2201-2207) or other approved agency records disposition schedules. These records shall be available for public inspection and copying, in accordance with FOIA.

## **Article X Recommendations and Reporting**

Draft formal reports and their content are deliberated, discussed, and voted upon by NIAC members at scheduled business meetings. The approved results and recommendations are transmitted to the President through the Secretary, along with a formal transmittal letter within 14 days of the member's approval. All recommendations approved by the NIAC are tracked

through DFO established procedures and periodic results are given to the NIAC by the DFO to provide feedback on implementation. After the report has been received by the President, the EOP and DHS work with the appropriate interagency committee(s) to evaluate the report proposals and devise a strategy for implementing the validated recommendations.

**Article XI Amendment of the Bylaws**

The DFO may amend these bylaws at any time and the amendments shall become effective immediately.

*Celinda Moening* 12/15/2023

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Celinda Moening  
NIAC Alternate Designated Federal Officer  
December 15, 2023