

**UNITED STATES DEPARTMENT OF HOMELAND SECURITY  
CHARTER OF THE CRITICAL INFRASTRUCTURE  
PARTNERSHIP ADVISORY COUNCIL**

**I. ESTABLISHMENT AND OFFICIAL DESIGNATION**

Consistent with section 201 of the *Homeland Security Act of 2002* (the “Act”), 6 U.S.C. § 121, and pursuant to section 871(a) of the Act, 6 U.S.C. § 451(a), the Secretary of Homeland Security [hereinafter referred to as the “Secretary”] hereby establishes the Critical Infrastructure Partnership Advisory Council (CIPAC) for the purposes set forth herein. In recognition of the sensitive nature of the subject matter involved in the CIPAC’s activities, the Secretary hereby exempts the CIPAC from Public Law 92-463 (*The Federal Advisory Committee Act*, or “FACA”).

**II. OBJECTIVE AND SCOPE OF ACTIVITY**

- A. The CIPAC is aligned with and supports the implementation of the National Infrastructure Protection Plan (NIPP) 2013: *Partnering for Critical Infrastructure Security and Resilience*, and will help to effectuate the interests of the partnership structure set forth in the NIPP 2013, or any subsequently-dated issuances thereof, by coordinating federal infrastructure security and resilience programs with the infrastructure security and resilience activities of the private sector and of state, local, tribal, and territorial governments. The CIPAC also operates consistent with the critical infrastructure sector construct outlined in Presidential Policy Directive - 21, *Critical Infrastructure Security and Resilience* (PPD-21). Specifically, CIPAC will facilitate interaction between government representatives at the federal, state, local tribal, and territorial levels and representatives from the community of critical infrastructure owners and operators in each critical infrastructure sector to conduct deliberations and form consensus positions to assist the Federal Government in engaging in, among other things:
1. Planning;
  2. Coordinating among government and critical infrastructure owner and operator partners;
  3. Implementing security and resilience program initiatives;
  4. Conducting operational activities related to critical infrastructure security and resilience measures, incident response, and recovery;
  5. Reconstituting physical and cyber critical infrastructure assets and systems from both manmade and naturally occurring events; and
  6. Sharing threat, vulnerability, risk mitigation, business continuity information, best practices, and lessons learned at the unclassified level and, as necessary, the classified secret level with current clearance holders.
- B. As appropriate, the CIPAC may develop policy advice and recommendations on critical infrastructure security and resilience matters to be provided to the Department of Homeland Security (DHS), the Sector-Specific Agency (SSA) for

each sector, and the other federal departments and agencies supporting the critical infrastructure security and resilience mission under the NIPP 2013, or any subsequently-dated issuances thereof, which have responsibility for establishing and implementing federal policy and managing federal programs. The CIPAC has no authority to establish federal policy or otherwise undertake inherently-governmental functions.

- C. The CIPAC and its component working groups, or subgroups, may consult with interested parties, agencies, interagency committees, or groups of the U.S. Government, as well as with non-governmental groups and individuals.

### III. DEFINITIONS

- A. For the purposes of this Charter and consistent with the NIPP, the following definitions apply:
  1. **Sector Specific Agency (SSA):** PPD-21 identifies 16 Critical Infrastructure Sectors and their assigned SSAs. A federal agency assigned as an SSA is responsible for the day-to-day engagement of the sector and collaboration with relevant external governmental and non-governmental bodies to work to strengthen the security and resilience of the Nation's critical infrastructure in that sector.
  2. **Cross-Sector Councils:** For activities operating under the CIPAC, the Cross-Sector Councils (as identified in the NIPP 2013, or any subsequently-dated issuances thereof) work to create consensus advice or recommendations to relevant federal agencies and, therefore, must comply with all of the provisions in this Charter.
  3. **Working Groups:** For activities operating under the CIPAC, working groups consist of CIPAC members from the participating PPD-21 designated sectors or subsectors, and subject matter experts (SMEs), as needed, to address the critical infrastructure needs of the sector. Working groups meet on a recurring basis to create consensus advice or recommendations to the relevant federal agencies and, therefore, must comply with all of the provisions of this Charter.
  4. **Cross-Sector Working Group:** For activities operating under the CIPAC, cross-sector working groups consist of CIPAC members representing more than one PPD-21 designated sector or subsector, and SMEs, as needed, to address the critical infrastructure needs of their respective sectors. Cross-sector working groups meet on a recurring basis to create consensus advice or recommendations to relevant federal agencies and, therefore, must comply with all of the provisions in this Charter. Ad hoc groups that are not meeting on a recurring basis do not qualify as cross-sector working groups under this Charter.
  5. **Subject Matter Expert (SME):** For the purposes of CIPAC, a subject matter expert (SME) is defined as an individual who: is not a member of a council under the CIPAC; possesses significant expertise and substantive knowledge, greater than a layperson; and works in the relevant field or industry. An SME's individual expertise or opinion may be used to provide technical or industry-

specific information for the purposes of informing the recommendations of a working group or SCC. SMEs may not participate in forming consensus advice or recommendations.

6. **Designated Federal Officer:** For the purposes of the CIPAC, the Designated Federal Officer (DFO) or Alternate Designated Federal Officer (ADFO) must be DHS employees. The DFO ensures that the CIPAC operates in full compliance with this charter. The CIPAC DFO or ADFO must approve or call all CIPAC meetings.

#### IV. MEMBERSHIP AND ORGANIZATION

- A. The CIPAC is representative of those critical infrastructure sectors identified in, or established by the Secretary, pursuant to PPD 21: Critical Infrastructure Security and Resilience. Additional sectors established by the Secretary will be publicly announced. Modal sub-councils, properly established within a sector, will be considered part of that sector for CIPAC activities and will work with the CIPAC DFO to ensure CIPAC compliance.
- B. The specific membership of the CIPAC consists of entities representing: (i) the owner and operator members of a DHS-recognized Sector Coordinating Council (SCC), including their representative trade associations or equivalent organization members of an SCC as determined by the SCC [hereinafter "SCC CIPAC Members"]; and (ii) Federal, state, local, tribal, and territorial governmental entities comprising the members of the Government Coordinating Council (GCC) for each sector, including their representative organizations [hereinafter "GCC CIPAC Members"], members of the State, Local, Tribal and Territorial Government Coordinating Council, and representatives of other federal agencies with responsibility for critical infrastructure security and resilience activities. Critical infrastructure owners and operators are those entities that own and invest in physical and cyber infrastructure assets, in the systems and processes to secure them, and that are held responsible by the public for their operations and response and recovery when their infrastructure or key resources are disrupted.
- C. While SCCs are self-organized and self-governed, their composition must be recognized by the SSA as appropriately representative of the sector in order to achieve the sector's objectives.
- D. SCCs may choose to operate outside of their advisory relationship with the Federal Government, and in doing so, may choose to form legal entities to facilitate that work, as long as those entities are not-for-profit. In their capacity as advisory bodies to the Federal Government, fees or dues may not be used as criteria for membership.
- E. Outside of CIPAC, Public Law 92-463 (*The Federal Advisory Committee Act* or "FACA" governs the operation of federal advisory committees and is implicated when the Federal Government meets with external parties to seek consensus advice or recommendations at the direction of the Federal Government. Generally, FACA is triggered by factors such as meetings occurring on a regular basis, with the same

entities, that are intended to seek consensus advice or recommendations. Pursuant to the Act, 6 U.S.C. § 121, and section 871(a) of the Act, CIPAC activities are exempt from FACA. For CIPAC, only those member activities that will result in and/or are intended to seek consensus advice or recommendations must be conducted as CIPAC activities. The adoption of any consensus advice or recommendations submitted is ultimately the decision of the relevant federal entity seeking the advice. SCC or GCC or working group activities that occur on an ad hoc basis or one-way information threat briefings generally are not covered under CIPAC, as they are not intended to seek consensus advice or recommendations.

- F. In order to achieve as representational a membership as possible from each sector, as new sectors and their SCCs are formed, and existing ones mature, critical infrastructure owners and operators or their representative trade associations or equivalent organizations that join SCCs after the date of renewal indicated below shall be considered members of the CIPAC upon notification to the CIPAC Executive Secretariat. The CIPAC Executive Secretariat will, at a minimum, publish annual updates in the Federal Register to announce changes in the membership of the CIPAC and maintain a list of members on a publicly-accessible website.
- G. As they are independent bodies, meetings consisting solely of members of the SCCs, operating without the specific direction of the Federal Government, or those consisting solely of members of the GCCs, do not constitute meetings of the CIPAC. However, if those meetings are intended to provide consensus advice or recommendations to the Federal Government, they generally must be held in accordance with CIPAC requirements.<sup>1</sup> If meetings of CIPAC working groups (or subgroups) are deliberative and are intended to provide consensus advice, then they shall comply with CIPAC requirements as established in this charter and any compliance procedures established by the CIPAC Designated Federal Officer.
- H. The CIPAC may meet as a whole or in any combination of working groups or subgroups that is most conducive to the effective conduct of its activities including, without limitation, in groups encompassing specific sectors to address sector-specific issues and concerns, or in a cross-sector group with representation from each of the participating sectors to address interdependencies and other cross-sector issues. Non-CIPAC members may participate as part of these working groups or subgroups, but they may not serve in a leadership capacity or offer consensus advice or recommendations. Non-CIPAC members may participate in an individual capacity only. See, the definition of an SME in III (A) (5).
- I. Cross-sector working groups that are expected to meet on a recurring basis must be convened with the concurrence of the Chairs or SSAs of each participating sector needed to address critical infrastructure and resilience activities that may be unique

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<sup>1</sup> GCC-only meetings may not require CIPAC governance, even if they are coming to consensus advice, if the meetings are exclusively between Federal officials and elected officials of state, tribal, or local governments (or their authorized designated employees) to exchange views, information, or advice relating to the management or implementation of Federal programs. See, the Unfunded Mandates Reform Act of 1995 ("UMRA") 2 U.S.C. § 1534(b) (exempting certain activities from FACA).

to a particular group of sectors. Consistent with one of the tenets of the establishment of CIPAC—ability to quickly convene relevant critical infrastructure stakeholders—depending upon the nature of these groups (e.g., the scope of the discussions, the regularity of meetings expected, and the duration of the group), consultation with the DFO should occur to discuss compliance with relevant CIPAC rules, to include those regarding charters and membership.

- J. In order to maintain transparency, each SCC, GCC, and cross-sector council as defined in the NIPP 2013, or any subsequently-dated issuances thereof, convening under the CIPAC charter shall maintain a current, publicly-available membership list and a public charter that: is consistent with current Presidential Policy Directives and Executive Orders applicable to critical infrastructure security and resilience; is approved or otherwise ratified by the respective council within the last five years; and describes, at minimum, criteria for determining representative membership.
- K. At the direction of the President of the United States and consistent with federal policy, federally-registered lobbyists may not participate as SCC member representatives in an "individual capacity" at meetings convened under the CIPAC. This limitation applies only to covered CIPAC activities, which include decision-making, formulating recommendations, and deliberations leading to consensus advice. Federally-registered lobbyists who are SCC member representatives or invited SMEs may participate at meetings convened under CIPAC, when functioning in a "representative capacity," such that they are representing the interests of a non-governmental entity or a recognizable group of persons, including, but not limited to, an industry sector, or state and local governments. Federally-registered lobbyists representing SCC members may continue to participate in all other NIPP framework meetings and activities outside CIPAC-convened events.
- L. SMEs shall be used solely to provide technical or industry-specific information for the purposes of informing the recommendations of the CIPAC members, in order for them to reach consensus on a particular critical infrastructure issue. SMEs will not participate in the deliberative process or in the development of consensus advice, are precluded from serving in a leadership capacity of an SCC or working group or subgroup, and are not part of the CIPAC itself. SMEs must comply with all applicable provisions of this Charter, to include the ethics requirements in Section VI.
- M. Non-federal members of the CIPAC serve as representatives of their sectors, not as special government employees as defined in 18 U.S.C § 202(a). Members will serve without any compensation for their work.
- N. Components of DHS may use the CIPAC membership to address emergent threats or issues regarding critical infrastructure on a less formal basis and shall work with the CIPAC DFO to ensure CIPAC compliance.
- O. Participation in the CIPAC does not provide authorization or permission to use any seal, trademark, or visual identities owned by the Federal Government. The use of

the any seal, trademarks, or other visual identities associated with the Federal Government requires a written agreement between the CIPAC member(s) and the relevant Federal Agency.

## **V. MEETINGS AND RESPONSIBILITIES**

- A. Meetings within the CIPAC structure will be held at least quarterly to address matters within the scope of this Charter and may be held more frequently as necessary or appropriate to address critical infrastructure mission requirements. Meetings will be announced on a publicly-accessible website unless exigent circumstances prohibit doing so.
- B. Due to the sensitive nature of the material discussed, meetings of the CIPAC will customarily be closed to the public, but may be opened by the CIPAC DFO or ADFO after consultation with the participating SCCs and GCCs leadership.
- C. The Cybersecurity and Infrastructure Security Agency, or its successor, will be designated as the CIPAC Executive Secretariat. The CIPAC Executive Secretariat will:
  - 1. Through the identified DFO or ADFO, a Federal official within the Executive Secretariat, (i) designate a DHS federal Compliance Liaison Official (CLO), to attend all meetings of the CIPAC and ensure the advisory activities of the CIPAC are within its authorized scope of responsibility, exercising the power to adjourn any of its meetings if necessary; (ii) annually train and certify CLOs on their required duties; and (iii) prepare public notices related to meetings.
  - 2. Oversee the development, implementation, operation, and observance of administrative procedures for the CIPAC. It will also issue guidance for participation in the CIPAC and facilitate annual training to members with respect to such topics as ethics, procurement, and intellectual property as they relate to CIPAC activities.
  - 3. Prepare records of CIPAC meetings that will, at a minimum, contain the membership present, including their member representative's professional affiliation; a description of matters and materials discussed; and any general actions taken, conclusions reached, or recommendations adopted. All CIPAC records are subject to all relevant federal laws, to include the Freedom of Information Act.
  - 4. Maintain calendars and agendas for CIPAC meetings.
  - 5. Coordinate the processing, review, and evaluation of all information shared by, and communications from, meeting participants with federal entities engaged in CIPAC activities.

6. Maintain all member information on the publicly-available CIPAC website, and publish changes in CIPAC membership in the Federal Register on an annual basis (at a minimum).
  7. Develop and maintain an annual performance report on a publicly-accessible website that will provide, to the extent possible, information on CIPAC accomplishments and measurements of progress made during CIPAC activities.
  8. Extend invitations, as needed, to attend meetings to federal, state, local, tribal, and territorial officials, and other subject matter experts, as required by the activities of the CIPAC.
  9. Approve any CIPAC governance documents that are consistent with this Charter.
  10. Perform other administrative functions as required and ensure CIPAC compliance. Failure of participants to adhere to the CIPAC governance documents, to include this Charter, may result in the denial of those participants from future participation in CIPAC activities.
- D. The CIPAC Executive Secretariat may accept the offer of another federal agency to host and provide secretariat meeting support for any CIPAC meetings that they are conducting as the Sector Specific Agency. The costs of such services will be borne by the offering agency, and will follow CIPAC meeting operational procedures as established by the CIPAC Executive Secretariat.
- E. CIPAC members participate according to this Charter and any governance documents hereafter adopted.

## **VI. ETHICS AND GOVERNMENT PROCUREMENT REQUIREMENTS**

- A. Individuals participating in CIPAC shall avoid taking any action that would result in real or perceived preferential treatment for any non-federal entity. CIPAC participants shall refrain from using information obtained solely by virtue of participating in the CIPAC for the benefit of their corporation, or nongovernmental organization or entity, or themselves personally. Such information includes, but is not limited to classified, proprietary, procurement-sensitive, and non-public information. Failure to adhere to this requirement may serve as a basis for removal and potential bar against future participation in the CIPAC.
- B. CIPAC participants shall disclose any potential conflict of interest that may affect their impartiality in offering recommendations or other information. For this purpose, potential conflicts of interest are considered as to be actively pursuing government contracts, grants, or other federal awards or funding directly related


to the subject matter area to which they are offering recommendations as part of the CIPAC.

## VII. ESTIMATED COSTS, COMPENSATION, AND STAFF SUPPORT

Subject to the availability of appropriations, DHS envisions the need for, and shall provide the CIPAC with, federal and contractor administrative support equivalent to five (5) fulltime federal positions, and with such funds as may be necessary to cover operating expenses and administrative costs generated in conducting its business. CIPAC members shall customarily bear their own costs of participating in the CIPAC; however, consistent with DHS policies and procedures, laws, and government ethics rules and guidance, and subject to the availability of funds, DHS may pay reasonable travel expenses, and per diem in lieu of subsistence. The estimated annual operating costs are \$750,000 plus personnel costs for five (5) permanent federal staff members. This annual operating costs estimate incorporates operating expenses and administrative costs, but excludes other potential costs, such as invitational travel.

## VIII. DURATION

The CIPAC shall function on a continuing basis until the earlier of (A) two years from the date of renewal indicated below; or (B) termination by the Secretary; provided however, that the CIPAC may continue to exist beyond two years from the date of establishment indicated below upon renewal by the Secretary pursuant to section 871 (b) of The Homeland Security Act of 2002, 6 U.S.C. § 451(b).

  
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Kirstjen M. Nielsen  
Secretary of Homeland Security

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