

State and Local Exemption to Federal Advisory Committee Act

The Unfunded Mandate Reform Act of 1995
P.L. 104-4, signed by the President March 22, 1995
Title II,
Section 204.

STATE, LOCAL, AND TRIBAL GOVERNMENT INPUT

- (a) **IN GENERAL:** Each agency shall, to the extent permitted in law, develop an effective process to permit elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates.
- (b) **MEETINGS BETWEEN STATE, LOCAL, TRIBAL AND FEDERAL OFFICERS: The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to actions in support of intergovernmental communications where:**
- 1. Meetings are held exclusively between Federal officials and elected officers of State, local, tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and**
 - 2. Such meetings are solely for the purposes of exchanging views, information, or advice relating to the management or implementation of Federal programs established pursuant to public law that explicitly or inherently share intergovernmental responsibilities or administration.**
- (c) **IMPLEMENTING GUIDELINES:** No later than 6 months after the date of enactment of this Act, the President shall issue guidelines and instructions to Federal agencies for appropriate implementation of subsections (a) and (b) consistent with applicable laws and regulations.

“JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE”

SEC.204. STATE, LOCAL AND TRIBAL GOVERNMENT INPUT

...The conferees agree that an important part of efforts to improve the Federal regulatory process entails improved communications with State, local, and tribal governments. Accordingly, this legislation will require Federal agencies to establish effective mechanisms for soliciting and integrating the input of such interests into the Federal decision-making process. Where possible, these efforts should complement existing tools, such as negotiated rulemaking and/or the use of Federal advisory committees broadly representing all affected interests.

The conferees recognize that FACA has been the source of some confusion regarding the extent to which elected officials of State, local, and tribal governments, or their designated employees with authority to act on their behalf, may meet with Federal agency representatives to discuss regulatory and other issues involving areas of shared responsibility. Section 204(b) clarifies Congressional intent with respect to these interactions by providing an exemption from FACA for exchange of official views regarding the implementation of public laws requiring shared intergovernmental responsibilities or administration.

Section 204[c] requires the President to issue guidelines and instructions to Federal agencies, consistent with other applicable laws and regulations, within six months of enactment. The conferees would expect the President to consult with the Director of the Office of Management and Budget (OMB) and the Administrator of General Services (GSA) before promulgating such guidelines.