



UNITED STATES DEPARTMENT OF COMMERCE
Office of the General Counsel

Washington, D.C. 20230

JAN 13 2009
MEMORANDUM FOR: Israel Hernandez
Assistant Secretary for Trade Promotion
and Director General
U.S. and Foreign Commercial Service
International Trade Administration

FROM: Barbara S. Fredericks *BAA*
Assistant General Counsel
for Administration

SUBJECT: Review of Revised 2008 DEC Manual

This provides concurrence from this office on the attached revised manual for use by the U.S. and Foreign Commercial Service (US&FCS), International Trade Administration (ITA). The manual provides policy and operating guidelines for the network of District Export Councils (DECs) across the U.S.¹ This office last concurred on a version of the subject manual in 1994.

Our concurrence on the subject manual is valid for five years, upon which time US&FCS must resubmit the manual for our review. Amendments and addenda to the subject manual will require separate formal review and concurrence from this office. This is to ensure that the manual accurately reflects the state of the law authorizing the activities and policies it outlines, including, among others, restrictions on US&FCS personnel with regard to DEC lobbying activities in Section VI, ethics matters concerning the role of US&FCS officers as ex officio DEC members in Section IV, and personnel matters concerning DEC member personal liability in Section VIII.

The manual covers DEC activities and how they coincide with US&FCS' activities and mission. It summarizes the organizational structure of DECs and the activities they conduct and provides guidance on DEC membership and the development of DEC strategic plans. It explains DEC business assistance and community and educational outreach activities. It also discusses how DECs facilitate the work of US&FCS' national U.S. Export Assistance Center network. Finally, the manual issues guidance on the financial management of the DECs and discusses the coordination of DEC and US&FCS activities.

¹Revisions include edits provided by the following offices within the Office of the Assistant General Counsel for Administration: the General Law Division, the Ethics Law and Programs Division, and the Employment and Labor Law Division. Revisions also include edits provided by the Office of Chief Counsel for International Commerce.

As noted above, this office last reviewed and concurred on a DEC manual in 1994. As such, the subject manual required extensive clarifications and revisions to ensure compliance with Federal laws and regulations. Revisions included revising, clarifying, and/or adding language on the following matters, among others: (1) the roles of the various members of DEC Executive Committees (including language defining the role of US&FCS staff on those committees); (2) the role of individuals who are not DEC members attending DEC meetings as guests and not as alternates representing DEC members; (3) the types of relationships into which DEC members may enter (such as memoranda of understanding with outside parties) and the limits on their effects on US&FCS; (4) the role of student interns and how DEC members and US&FCS may properly accept their services; (5) the role US&FCS staff play as DEC members; (6) the proper steps to take in nominating DEC members; (7) the Secretary's authority to terminate DEC membership at any time and for any reason (in particular, for inactivity); (8) DEC strategic plans and how they coincide with US&FCS plans; (9) DEC facilitation of US&FCS' work; (10) legal limitations on grassroots lobbying activities; (11) legal limitations on DEC revenue generation activities; and (12) DEC member personal liability.

Feel free to contact me at (202) 482-5387, or Hector Benitez of my staff at (202) 482-4724, with any further questions on this matter.

Attachment

DISTRICT EXPORT COUNCIL POLICIES & PROCEDURES

MANUAL



Office of the Deputy Assistant Secretary
Office of Domestic Operations
U.S. and Foreign Commercial Service
International Trade Administration
U.S. DEPARTMENT OF COMMERCE

Rev. 2008

PREFACE

The District Export Council (DEC) Handbook provides policy and operating guidelines for the network of DEC's of the U.S. Department of Commerce across the United States.

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I. PURPOSE AND HISTORY OF DISTRICT EXPORT COUNCILS

Purpose

District Export Councils (DECs) are organizations of leaders from local business communities, appointed by the Secretary of Commerce, whose knowledge of international business provides a source of professional advice for local firms.

For 30 years, DECs have served the United States by assisting companies in their local communities to export, thus promoting our country's economic growth and creating new and higher-paying jobs for their communities. Closely affiliated with the Commerce Department's U.S. Export Assistance Centers, the 60 DECs combine the energies of nearly 1,500 exporters and export service providers who support the U.S. Government's export promotion efforts throughout the country.

DEC members volunteer their time to sponsor and participate in numerous trade promotion activities. They also supply specialized expertise to small- and medium-sized businesses that are interested in exporting. Each DEC's Executive Committee works with its membership to create an annual strategic plan that involves all members in mission fulfillment.

History of District Export Councils

1960: President Eisenhower asked the Secretary of Commerce to enlist the efforts of the U.S. business community in enlarging export opportunities for American firms. Responding to this challenge, the National Export Expansion Council was formed.

1973: To implement National Council recommendations, and to stimulate greater business participation in the national export effort, President Nixon directed the Secretary of Commerce to establish District Export Councils (DECs) throughout the United States.

1974: Under the authority of the Department of Commerce, the Secretary of Commerce established regional DECs. Approximately 1,000 business and trade experts were appointed to serve on the newly formed DECs.

Present: DECs continue to fulfill their mission as organizations of local community leaders from business, government, and universities whose knowledge of international business provides a source of professional advice to companies seeking to expand international sales. The current network of DECs includes over 1,500 volunteers who support the mission of the International Trade Administration's U.S. and Foreign Commercial Service Export Assistance Centers (USEACs).

DECs play a major role in the planning and coordination of export activities for their communities. As a lead organization serving the international business community, DECs have the capacity to facilitate development of an effective export assistance network and can assist in coordinating the activities of trade assistance partners to

leverage available resources. DECs serve as a communication link between the business community and the U.S. and Foreign Commercial Service (US&FCS), and support the export expansion activities of the U.S. Department of Commerce in a variety of ways within their communities. Section VI, Activities, describes a sample of activities DECs may engage in to encourage and support export expansion.

II. MISSION

The DEC's encourage and support exports that strengthen individual companies, stimulate U.S. economic growth, and create jobs. Export expansion activities are accomplished by working with the U.S. Export Assistance Centers to provide opportunities to promote greater export activity at the local level while developing a trade assistance network.

The mission of the District Export Council is supported through activities, which may include:

- Counseling of local businesses;
- Identifying export financing sources for businesses;
- Creating greater export awareness in the local business community;
- Identifying issues that affect export trade and implementation of constructive suggestions for improvement;
- Identifying and communicating issues that affect export trade to appropriate bodies for action;
- Supporting programs and services of the USEACs;
- Building local export assistance partnerships with other organizations; and
- Promoting international education at the community level.

To accomplish these objectives, the DEC's support their mission using funds that are generated through DEC fundraising activities, without any government appropriations. DEC's may not raise funds for profit or represent the U.S. Government.

III. ORGANIZATIONAL STRUCTURE

Local District Export Council

Each DEC shall have an Executive Committee consisting of a Chair, Vice Chair, Executive Secretary, and Treasurer. The Secretary of Commerce appoints the Chair and Vice Chair of each DEC. The local USEAC Director serves in a non-voting capacity as the Executive Secretary for the DEC and is responsible for coordinating and taking minutes at local DEC meetings.¹ The DEC may forward recommendations for consideration for Chair and Vice Chair through the Executive Secretary. The Executive Secretary also may initiate recommendations for the Chair and Vice Chair. Each DEC annually elects a Treasurer.

Each DEC's Chair, Vice Chair, and Treasurer, with input from and the participation of other DEC members, is responsible for establishing an annual strategic plan. The Executive Secretary reviews proposed annual strategic plans for consistency with the DEC and US&FCS missions and informally concurs on them prior to their adoption.

The Executive Committee provides leadership toward the council's objectives and recommends new members. The Executive Secretaries forward all nominees to the Commercial Service Deputy Assistant Secretary (DAS) for Domestic Operations (ODO) to recommend to the Secretary of Commerce for approval.

Each DEC should hold a minimum of two meetings of the general membership annually. Meeting dates and locations should be determined in accordance with the rules of governance of each DEC and should be communicated to the membership at least 30 days in advance of the meeting. DEC's are encouraged to invite guests, including prospective members, to attend meetings after consultation with the DEC Chair. Members do not designate alternates to represent them at meetings.

National DEC Conferences

National DEC conferences are held annually. These meetings allow for communication among DEC members, and include participation by appropriate government officials and other individuals whose contributions will support the theme of the meeting. The National Conferences are designed to bring together the diversity of the individual DEC members, U.S. Government officials, and other appropriate entities in order to share information and reinforce the collaborative mission of the DEC organization and the US&FCS in supporting international trade and assistance to small- and medium-sized U.S. exporters. The annual conference provides the only gathering of all the DEC members and U.S. Government officials to focus on critical trade policy and trade issues across the United States. This forum is an invaluable tool for helping U.S. Government officials to understand the challenges and opportunities U.S. exporters face. Other meetings of DEC Chairs occur as needed on both a regional and national level.

¹ A list of the DEC Executive Secretaries can be found in the Appendices.

Cooperative Agreements

DECs should seek guidance from the Executive Secretary when considering any agreements, memoranda of understanding, or other formal relationships with individuals or organizations outside US&FCS or the Department of Commerce to ensure consistency with the DEC and US&FCS missions and goals. In proposing and entering into such relationships, DECs may not create any binding legal obligations on the part of US&FCS and will avoid relationships with the potential to result in embarrassment to the DEC or the US&FCS. US&FCS will not review such relationships for legal sufficiency; DECs are responsible for seeking independent legal guidance as appropriate. Each DEC shall have clear policies regarding which officers or members may enter into relationships on behalf of the DEC.

Agreements, memoranda of understanding, or other formal relationships between DECs and US&FCS differ from the relationships with outside parties mentioned above. Formal relationships between DECs and US&FCS are subject to legal review by, and approval from, US&FCS counsel, which shall review the relationships for legal sufficiency. US&FCS counsel will only provide guidance to US&FCS in these instances. DECs remain responsible for seeking independent legal guidance as appropriate.

Student Interns

Student interns can serve a vital role in furthering the work of the DECs and US&FCS. Accepting their services may occur in one of three manners:

- Interns providing services to DECs: These interns are solely hosted by the DECs and have no affiliation with or provide services to US&FCS. DECs should seek independent guidance regarding sponsoring interns and accepting their services.
- Interns providing services to US&FCS: US&FCS must accept the services of these interns by sponsoring them through an established US&FCS or Department of Commerce student intern program. US&FCS should consult its Office of Human Resources Management for guidance on those intern programs and on steps required for proper acceptance of intern services under those programs.
- Interns providing services to US&FCS as part of a memorandum of understanding: DEC-sponsored interns may provide their services as part of a DEC's contribution in furtherance of a specific project or series of projects pursuant to a formal agreement or memorandum of understanding with a DEC. US&FCS should consult with counsel and forward those agreements for review and clearance to ensure their legal sufficiency.

IV. MEMBERSHIP

Qualifications

Appointment to a DEC recognizes individuals as part of a select corps of trade experts dedicated to providing international trade leadership and guidance to their local business community and counsel to the U.S. Department of Commerce on export development issues. DEC members are recognized for their knowledge, judgment, and ability to influence the environment for exporting in their respective regions and their selfless dedication to assist U.S. exporters. In addition, DEC members are uniquely positioned to influence the global competitiveness of U.S. businesses through their combined efforts in the national network of DEC's.

Although DEC members are not U.S. Government employees, they are appointed to high visibility positions, and their activities reflect on the Secretary and Department of Commerce. A candidate's background and character are pertinent to determining suitability and eligibility for DEC membership. Since DEC appointments are made by the Secretary of Commerce, the U.S. Department of Commerce must make a suitability determination for all DEC nominees to be appointed.

Composition and Size

Each DEC has a targeted membership of 30. Membership is targeted to include representation of manufacturers and other exporting industry sectors, as well as companies and organizations which support exporters, representatives of local and state government, and trade organizations and associations. Membership should reflect the diversity of the local business community, but encompass a broad range of businesses.

DECs do not assess membership dues as a condition for participation or as a means for raising funds.

Terms

Members are appointed to staggered, four-year terms. Every two years, each DEC opens approximately half of its membership positions for appointment in order to maintain continuity within the organization. DEC member terms begin January 1 of the first year of the term, and terminate December 31 of the last year of the term.

Ex Officio Member

The local USEAC Director serves in an ex officio capacity as Executive Secretary of the DEC. The local USEAC Director is a non-voting member. The local USEAC Director's role is to provide oversight of the local DEC to ensure adherence to its mission and Department of Commerce policies, including this Manual. The Executive Secretary also serves as a resource for DEC members for guidance on DEC operations and proposed activities. The local USEAC Director is the only ex officio member of the DEC.

Nominations

Nominations of individuals believed to be suitable candidates for DEC membership should be forwarded to the respective DEC's Executive Secretary for consideration. The DEC Executive Committee will evaluate all candidates to determine their interest, commitment, and qualifications.

Nominations for appointments as DEC members for an upcoming term will be open from June 1 until July 15 of each year, during which time an announcement will be published in the Federal Register informing the public of the open nomination season. Nominees will be contacted by the DEC's Executive Secretary and asked to complete a Confidential Suitability Determination Statement. Forwarding of a candidate's nomination package cannot occur until the Statement is completed and returned.²

The DEC Executive Secretary submits final nomination packages for DEC membership to U.S. Department of Commerce headquarters by August 1. Nomination packages must include a District Export Council Nomination Form, Confidential Suitability Determination Statement signed by the nominee, justification for nomination, and a Membership Summary for the DEC.

Nominees then go through an extensive vetting process within the Department of Commerce prior to recommendation for appointment by the Secretary of Commerce. The U.S. Department of Commerce must make a suitability determination for all DEC candidates recommended for appointment by the Secretary of Commerce. The internal vetting and appointment process will be completed by the beginning of the term starting January 1 of the next calendar year.

Transfer, Resignation, and Termination

DEC members are appointed based on their position, affiliation, or focus of work. A member who experiences a change in status, which may possibly affect his/her continued eligibility as a DEC member, should consult with the DEC Chair and the Executive Secretary about continued membership on the DEC.

Any member who wishes to resign from the DEC must submit a letter of resignation to the Secretary of Commerce through his/her Executive Secretary and the Deputy Assistant Secretary for Domestic Operations, with a copy sent to the DEC Chair. Any member who relocates to an area under the jurisdiction of a different DEC must resign from his/her current DEC. If the member desires to retain DEC membership, he/she must inform the Chair and Executive Secretary of his/her original DEC. The DEC Chair and Executive Secretary will contact the new DEC regarding the member's status. The decision to accept the member into the new DEC will be made by the Chair of the DEC receiving the new member. The Executive Secretary then updates the DEC database to reflect the membership status, and submits the transfer of the membership to the Deputy Assistant Secretary of Domestic Operations.

² The background check is not a clearance for access to classified information.

The Secretary of Commerce appoints DEC members for a specific term; and they serve at the pleasure of the Secretary of Commerce. **The Secretary may terminate membership at any time for any reason, including, but not limited to, DEC member inactivity.**

V. STRATEGIC PLAN

Key to the success of each local DEC program is its annual strategic plan. The strategic plan provides an outline of the goals and activities to be accomplished in the coming year. The DEC Executive Secretaries will assist their respective DEC members in formulating the strategic plan.

DECs are encouraged to identify strategies that contribute to the local export assistance infrastructure. As a strategy statement, the annual plan should focus DEC energies and resources on achieving specific objectives.

The DEC Executive Committee in conjunction with its local DEC members is responsible for ensuring the development of a plan, input from the membership in the development of the plan, and communication of the plan to DEC members and other members of the community, as appropriate. The DEC Chair must sign off on the annual plan, and the Executive Secretary concurs on the plan and submits it as part of the annual USEAC Strategic Plan.

Outline of Strategic Plan

The plan should begin with a clear, concise mission statement, followed by a list of objectives and activities stated briefly in one or two sentences. The activities listed below reflect the mission of the DEC members and should be considered in developing the annual plan.

The annual plan should include committee information (listing committee name, chair(s), duties, responsibilities, and membership), and financial information (budget projections and annual accounting statement).

Where other local trade assistance organizations are already implementing recommended activities, the plan may outline a strategy for shared responsibilities or a division of labor to avoid unnecessary duplication.

The annual strategic plan may not include any reference to lobbying of members of the U.S. Congress. Even though DEC members and DEC members may engage in lobbying activities (see the section on Lobbying Activities herein), US&FCS may not participate in or use appropriated funds for lobbying of the U.S. Congress. Since the Executive Secretary concurs on the DEC annual strategic plan and submits it as part of the annual USEAC Strategic Plan, the DEC annual strategic plan may not include lobbying activities of members of the U.S. Congress.

Examples of DEC annual plans can be found in Appendix A.

VI. DEC ACTIVITIES

Primary Activities

In order to fulfill their mission, DEC's regularly engage in a variety of activities designed to educate and assist their local community regarding export opportunities and benefits. Certain activities are integral to a viable DEC export development program, including the establishment of the organizational structure and membership roster, educational programs, and counseling and referral services. The main activities in which most DEC's engage fall into these categories:

- National DEC Conference
- Business Assistance
- Community Outreach (US&FCS and Trade Issues)
- Academic Outreach (School/University)
- Facilitating the work of the USEAC
- Regional/National Activities

Business Assistance

DEC's interact directly with their local business community in order to help small- and medium-sized businesses promote their goods and services abroad. They regularly engage in a variety of business assistance activities follows:

- Collect export success stories for USEAC
- Mentor companies on joint visits with USEAC
- Support USEAC trade events
- Speak at, sponsor, or otherwise participate in trade events such as seminars, roundtables, discussion forums, briefings, videoconferences, World Trade Week activities, reverse trade missions, matchmaking or one-on-one appointments
- Provide hospitality receptions for special events such as visiting dignitaries, foreign buyers and Commercial Officers
- Sponsor trade-show booths and/or exhibits for local businesses seeking to export
- Sponsor or support programs for trade shows, trade missions, etc.
- Promote and recruit for US&FCS programs, services, and events
- Sponsor and/or nominate companies for various awards, such as the Director General's Export Achievement Award, the President's E-Award, and the DEC Exporter of the Year Award.
- Create and maintain local trade event calendars
- Create trade organization and export assistance directories
- Sponsor business surveys and outreach meetings
- Issue papers and publications on exporting issues
- Create and conduct how-to-export presentations

Community Outreach

DECs perform a vital role for US&FCS by reaching out to the local community on behalf of the US&FCS'. A list of common community outreach activities follows:

- Meet with local elected officials
- Co-sponsor events and/or awards with elected officials
- Make presentations to business organizations such as Rotary Clubs, etc.
- Write articles, op-eds, and letters to the editor
- Outreach to underserved communities
- Outreach mailings
- Host briefings, breakfasts, etc. for or involving elected officials
- Invite elected officials or their staff to meetings
- Monitor state and local trade policy/activity
- Host town hall meetings, open house events, etc.
- Outreach to reporters, participate in interviews and serve as a contact for export issues
- Provide media and elected officials with talking points and issue papers, etc.
- Speak on local radio and television talk shows.

Academic Outreach (School/University)

DECs provide a substantial educational role in their local communities for the benefits of international trade and commerce. They often work to ensure that students and educational organizations have a strong understanding of the nature of exporting and how the global economy works. This is accomplished by either participating personally in the education process or by contributing resources to further these goals. A list of common academic outreach activities follows:

- Educate members on export programs and issues
- Scholarships
- Internships
- Include students in local trade events
- Guest speaking in classes
- Promote international trade curriculum development
- Create international trade curriculum or certificate programs

Facilitating the Work of the USEAC

The local U.S. Export Assistance Center (USEAC) is the primary entity in the community that has the resources and personnel dedicated exclusively to export promotion. Since the DECs are members of the community and are tied more closely with the current state of the business industries, their information and advice is integral to helping develop the resources and information within the local USEAC. A list of common facilitation activities follows:

- Introduce small- and medium sized companies to the USEAC that are new to exporting, considering exporting, or looking to export to new markets.
- Inform USEAC staff of industry, geographic, or local business developments
- Host, or assist with placement of, USEAC trade specialists in companies to further their professional development
- Provide feedback to USEACs on their programs and/or services

- Provide USEAC orientations for members

Lobbying Activities

DECs are volunteer private sector organizations affiliated with the Department of Commerce; their activities are supported without appropriated funds. Therefore, DECs may engage in lobbying activities, and may encourage others to lobby, at the federal, state or local level. Such activities may include contacting members of Congress or state legislatures to influence their position on legislation. However, DECs, particularly those established as tax-exempt organizations, are responsible for insuring that any lobbying activities are consistent with requirements under applicable tax codes and relevant state or other laws governing activities of tax-exempt organizations and lobbying activities.

Under the Anti-Lobbying Act, US&FCS personnel may not participate in, or otherwise use appropriated funds for, grassroots lobbying activities. Federal employees may not ask DECs to contact Congress to support or oppose any legislation, nor may they ask the DECs to ask their clients to lobby. Neither may DECs ask US&FCS personnel to contact or lobby Congress on their behalf.

VII. FINANCIAL MANAGEMENT

Budgets

Each DEC shall prepare an annual budget to reflect the projected costs of planned activities for the year, related sources of income, and other financial needs and opportunities of the organization. Uncommitted reserves should be minimized.

Financial Records and Collection of Funds

USEAC personnel are not permitted to be involved in the DEC's financial activities. However, USEAC personnel may assist with the collection of registration fees for DEC-sponsored events, including providing staffing resources at DEC-sponsored events to collect registration fees. Any funds received by USEAC personnel for a DEC must be transferred to the DEC Treasurer or other authorized DEC member within one working day and the receipt and transfer recorded.

The Treasurer should maintain financial records compiled at regular intervals, along with related documents, including bank statements.

USEAC offices may be used as the DEC's mailing address. Bills, bank statements, and other records addressed to the DEC are to be forwarded to the DEC Treasurer or another authorized DEC member within three working days.

Revenue Generation

DECs must conduct fundraising activities to raise funds to support their activities; DECs receive no Federal Government appropriations. DEC revenue generating activities such as seminars, conferences, and trade missions may be co-sponsored by other community organizations, including the local USEAC office as appropriate. However, DECs may not raise funds for profit.

On occasion, a DEC initiates projects that require more funding than can be satisfied by normal collections from DEC-sponsored activities. In these cases, DECs can accept grant funding from public or private sector organizations (except those within the International Trade Administration).

Use of Funds

DEC funds are for use to further DEC goals. In addition to spending the funds on appropriate DEC activities, DECs may make gifts or donations, including gifts of travel, to USEACs upon approval by the Department of Commerce. DECs wishing to make such gifts or donations should consult with the Executive Secretary to identify and fill out

the required forms and ensure compliance with applicable gift or donation acceptance procedures.³

In general, DEC's do not provide grants or funds to unrelated organizations. There are instances, however, where a DEC will present a gift to support the common goals shared by local export assistance partners. Such gifts must be appropriate in the context of developing or strengthening the local infrastructure. Organizations receiving such funds may include both public and private sector partners (e.g., chambers of commerce, Small Business Development Centers, world trade clubs, universities).

To safeguard against the misuse of funds, or prevent the appearance of misuse, DEC's shall not fund activities that directly benefit one or more DEC members. Any gifts to unrelated organizations made by a DEC must first be approved by the DEC's Chair, Vice Chair, and Treasurer, and then by a majority of the DEC's members. In instances where proposals for funding may directly benefit, or appear to be a conflict of interest to, any member, including those on the Executive Committee, that member should abstain from voting.

Disbursement of Funds

DEC funds are for use to further DEC goals, and expenses should be consistent with the DEC mission. DEC's are expected to utilize funds raised to carry out their mission. Uncommitted reserves should be minimized.

The Treasurer maintains the financial records of the DEC and pays expenses incurred in accordance with the accepted payment policy of the DEC, as directed under the organizational rules adopted by the local DEC. DEC's are urged to consider adopting a policy requiring the signature of the Chair or Vice Chair on checks that exceed a specified dollar amount. DEC's should establish reasonable financial controls, which may include separation of duties, internal and/or external audits, and other procedures, to protect DEC funds.

DEC's should evaluate expenses before they are incurred to assure that they are necessary and reasonable within the operations of the DEC and that there are no deviations from the established practice of the DEC. Executive Secretaries may contribute to discussions of proposed expenditures, but should not be directly involved in DEC financial operations. No government or other personnel not appointed to the DEC may manage DEC funds or financial records.

For activities cosponsored by the local USEAC's, DEC's are expected to share revenue generated with the USEAC's to offset part or all of the USEAC's' expenses in cosponsoring the activity.

³ DEC Executive Secretaries can provide copies of CD 210 forms (Record of Gift or Bequest).

Tax Compliance Liability for Personal Services Contracts

DECs are responsible for complying with reporting requirements to the IRS for payments made to personal services contractors, including interns or other part-time employees.

DECs should consult with a qualified tax or legal advisor to determine what action may be required and the dates for filing. In order to insure that adequate documentation will be available to meet reporting requirements, DECs should obtain professional advice prior to entering into a personal services contract.

Audits

An audit of a DEC's financial activities and records should be made once every year. The audit may be an internal audit, performed by members of the DEC not otherwise directly involved in maintaining the funds and financial records of the organization, or an external audit, performed by an outside entity. A formal audit performed by an accountant is not required unless deemed necessary by the members of the DEC.

A special audit review should be performed when there is a change in the Treasurer or other key officers of the DEC who have had oversight of the financial operations of the DEC, or if unusual circumstances, such as the sponsorship of a major project, have occurred.

Federal employees may not participate in any part of a DEC audit.

VIII. LEGAL ISSUES

Legal Status

Any DEC that decides to establish itself as a legal entity must comply with applicable legal requirements in the relevant jurisdiction. In addition, all local DEC articles of organization and bylaws must conform to the following:

- No government official shall be an incorporator;
- The Secretary of Commerce may not be a member of the association or corporation;
- USEAC directors may be members in their ex officio capacity. However, documentation, including articles and bylaws, must contain a provision stating explicitly that Federal Government employees serve as representatives of, and have a paramount responsibility to, the Federal Government, and that USEAC directors are not voting DEC board members; and
- All documentation, including articles and bylaws, along with amendments and repeals, must be reviewed and approved by the Assistant Secretary for Trade Promotion and Director General, US&FCS.

Tax-Exempt Status

Incorporation is not necessary to obtain federal tax-exempt status. Only the Internal Revenue Service (IRS) can grant federal tax-exempt status. Each DEC should consult with a legal advisor for more information about obtaining tax-exempt status if desired.

DEC Member Personal Liability

Because DEC members are not federal advisory committees regulated under the Federal Advisory Committee Act (FACA), and DEC members are not U.S. Government employees, the Federal Tort Claims Act does not apply to DEC activities. The extent to which DEC members and/or the organization itself may face liability is a matter of a specific situation and governing state law. DEC members may wish to address these issues in the context of the DEC's activities and applicable law. DEC members are urged to pursue an appropriate course of action to limit such liability where prudent.

The Department of Commerce advises that local DEC members work with local counsel to draft a waiver of liability form that can be used to limit personal liability in their jurisdiction. However, the Department of Commerce cannot require creation and use of such a form. To the extent that local DEC members have liability exposure concerns, the DEC members should consult competent local counsel. DEC members may also want to check their personal umbrella policy or employer's insurance policy for liability protection provided to cover volunteer activities, including the defense of discrimination allegations.

IX. U.S. AND FOREIGN COMMERCIAL SERVICE ROLE AND ORGANIZATION

U.S. Department of Commerce Organization

The organizational structure of the U.S. Department of Commerce consists of 10 agencies directly reporting to the Office of the Secretary of Commerce. Each of the 10 agencies is headed by an Undersecretary or Director, and is further divided into organizations headed by Directors (such the Bureau of Census) or Assistant Secretaries (such as the U.S. and Foreign Commercial Service). A list of the 10 agencies may be found on the Department of Commerce website at <http://www.commerce.gov/>.

International Trade Administration

The International Trade Administration (ITA) is the lead unit for trade in the Department of Commerce. It promotes U.S. exports of manufactured goods, nonagricultural commodities, and services. ITA is divided into four offices covering all aspects of U.S. trade promotion:

- Market Access and Compliance
- Manufacturing and Services
- Import Administration
- U.S. and Foreign Commercial Service

A Senate-confirmed Presidential Appointee heads each of the 4 offices within ITA. The U.S. and Foreign Commercial Service (US&FCS) is charged with the mission of helping U.S. companies, particularly small- and medium-sized companies, promote their goods and services in the international market. The US&FCS worldwide network includes over 100 U.S. Export Assistance Centers (USEACs) throughout the United States and more than 150 international offices, offering a variety of counseling and advocacy services, market research, and one-on-one matchmaking services.

U.S. and Foreign Commercial Service Coordination with DEC's

US&FCS serves as the primary point of contact for DEC's within the U.S. Department of Commerce. DEC's fulfill their mission of supporting US&FCS through a close working relationship with the Commercial Service's USEACs. US&FCS initiatives are often coordinated with the DEC's, and may include co-sponsorship of seminars, events, and projects as appropriate.

USEAC directors serve as Executive Secretaries of the DEC's in an ex officio capacity. As such, they participate in DEC meetings and DEC activities. The Executive Secretary is responsible for recording minutes of general meetings of the DEC and distributing the minutes.

A DEC coordinator in US&FCS' Office of the Deputy Assistant Secretary for Domestic Operations facilitates communication and activities between the Commercial Service and the DEC's. The coordinator: is a resource to DEC's and the Executive Secretary with

operational and programmatic guidelines, ideas, and best practices; aids in developing the DEC program through national initiatives and programs as appropriate; manages the infrastructure of the DEC program, such as developing the membership, managing the appointment process, and establishing operational standards; and responds to external requests or inquiries regarding DECs.

The DEC Coordinator's address is below:

Office of the Deputy Assistant Secretary

Office of Domestic Operations

U.S. Department of Commerce

14th St. and Constitution Ave., N.W.

Room 3810

Washington, D.C. 20230

(202) 482-3642 (o)

(202) 482-0687 (f)

X. APPENDIX A – Template of Local DEC Annual Strategic Plan

***(Insert Name)* District Export Council**

DEC Mission Statement

“The DEC’s encourage and support exports that strengthen individual companies, stimulate U.S. economic growth, and create jobs. Export expansion activities are accomplished by working with the U.S. Export Assistance Centers to provide opportunities to promote greater export activity at the local level while developing a trade assistance network.”

DEC Committee Strategy and Action Plan

DEC Vision for the Future

Organizational Requirements

APPENDIX B – Sample of Local DEC Annual Strategic Plan

Texas Camino District Export Council

2006-2007 Annual Plan and Initiatives

Mission Statement: The District Export Councils contribute leadership and international trade expertise to complement the U.S. Commercial Service's export promotion efforts through counseling businesses on the exporting process and conducting trade education and community outreach.

Committees will be project driven by current initiatives:

Texas Exporters Resource Guide – TCREC will continue to handout the 2005 publication at local events, through the U.S. Export Assistance Center.

Education Outreach:

Export Fellows – TCREC will continue to provide DEC members to teach the Export Fellows program that originated at CIBER/ University of Texas, continued to Southwest Texas University and Austin Community College/International.

Export Leaders Program – TCREC will host/speak at the Export Leaders Program in San Antonio, Texas hosted by the City of San Antonio and South Texas International Trade Center

Scholarship- TCREC will develop a scholarship fund for students

Community Outreach:

DEC will be involved in various community committees to include, Greater Austin Chamber of Commerce, International Center of Austin, Free Trade Alliance, City of San Antonio and other appropriate international organizations.

Legislative Outreach:

DEC will identify any issues related to international trade such as Free Trade Agreements, or other issues to support.

Meeting Hosts – Each member will be responsible for identifying and arranging for host organizations for upcoming quarterly meetings. GOAL: One per rotation of membership

APPENDIX C – National DEC Calendar

January 30	Annual Strategic Plans Due
June	Open nominations for local DEC
August	Close nominations for local DEC
October/ November	National DEC Conference