



FEDERAL ACTIVITIES INVENTORY REFORM (FAIR) ACT:

REPORT OF THE

U.S. OFFICE OF SPECIAL COUNSEL

FOR FISCAL YEAR 2004

Background

The Office of Special Counsel (OSC) is a small, independent law enforcement agency within the Executive Branch. As of June 30, 2004, OSC has 119 total positions, including presently vacant positions.¹ Two positions are filled by temporary appointments and three employees are part-time. The majority of OSC employees are assigned to the agency's program operating units. A small core staff of employees, other federal agencies (through cross-servicing agreements), and private vendors (by contract) provide such management and program support services, including functions classified as commercial activities, as may be needed by OSC. The agency does not provide administrative or commercial services.

Summary

The following is a summary of the aggregate data in OSC's fiscal year (FY) 2004 inventory of commercial and inherently governmental activities:

SUMMARY OF FY 2004 INVENTORY									
OSC	Commercial Activity Inventory					Inherently Governmental Inventory			
	FAIR Act	Uniformed Services	Foreign Nationals	Other	TOTAL	Inherently Governmental*	Uniformed Services	Foreign Nationals	TOTAL
	15	0	0	0	15	101	0	0	101
*Minus uniformed services personnel and foreign nationals									

The 15 functional allocations identified as commercial activities represent 13% of OSC's total of 116 FTE equivalents represented on the inventory.² All commercial FTEs have been designated as exempt from competition (reason code A) by OSC's competitive sourcing official, William Reukauf, Associate Special Counsel for Investigation and Prosecution (Division I).

¹ The FY 2004 inventory total of 116 FTE's (rather than 119) reflects the rounding of activities, as specified by the Office of Management and Budget (OMB) in allocating function codes.

² The 116 positions shown in OSC's FY 2004 inventory do not reflect actual position activity percentage usage by the agency on an annual basis. The Bureau of Public Debt, which processes OSC's financial and accounting transactions, projected actual position activity usage through the end of FY 2004 at 97.6. This falls within OSC's 113 FTE allocation for 2004. The 105 position activity allocation shown on OMB's 2004 FAIR spreadsheet for OSC was an interim number used by OSC, at OMB's request, to reflect positions for which agency funding was available in 2004 and does not reflect OSC's actual 113 allocation.

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FY 2003 Inventory

OSC received no administrative challenges to its 2003 inventory of commercial and inherently governmental activities after OMB's notice of its availability in the *Federal Register*, and the posting of the inventory on OSC's web site. Therefore, no changes were made to the 2003 inventory after OMB's approval.

Point of Contact

For further information about OSC's FY 2004 inventory, please contact:

Sharyn Danch
Legal Counsel and Policy Division
Office of Special Counsel
1730 M Street, N.W. (Suite 218)
Washington, DC 20036-4505
Tel: (202) 254-3600

Web Site Address

Following OMB's approval, OSC will make its FY 2004 inventory available to the public on the agency web site, at www.osc.gov (under "E-Library").

Inventory Challenge Process

OSC has implemented the inventory challenge process required by OMB Circular A-76 as follows:

1. **Submission of Inventory Challenge**. After publication of OMB's *Federal Register* notice that OSC's FY 2004 inventory is available, an interested party may challenge the inventory. The challenge must be in writing and received by OSC within 30 working days of the publication of OMB's *Federal Register* notice that the inventory is available. The inventory challenge must be limited to: (a) the classification of an activity as inherently governmental or commercial, or (b) the application of reason codes. *Function codes are not subject to the inventory challenge process*. An inventory challenge must specify the OSC location(s) and function(s) of the activity or activities being challenged, and must be addressed to the following agency inventory challenge official:

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Associate Special Counsel for Legal Counsel and Policy
Office of Special Counsel
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2. Inventory Challenge Decision. Within 28 working days of receiving an appropriate inventory challenge (defined in the previous paragraph), the inventory challenge official will: (a) validate the commercial or inherently governmental categorization or reason code designation of the challenged activity in a written decision letter, and (b) send the letter, including the reason(s) for the decision, to the interested party who submitted the challenge. The decision letter will include an explanation of the party's right to file an appeal of any adverse decision on the challenge. If the official determines that a challenge is not appropriate under the OSC process, the person who submitted the challenge will be informed in writing of the reason(s) for that determination.

3. Submission of an Appeal of an Inventory Challenge Decision. Upon receipt of an adverse decision on an inventory challenge, the recipient may appeal it. An appeal must be submitted to OSC in writing within 10 working days to the following OSC inventory appeal official:

James Renne
Deputy Special Counsel
U.S. Office of Special Counsel
1730 M Street, N.W. (Suite 218)
Washington, DC 20036-4505

4. Inventory Appeal Decision. Within 10 working days of receipt of an appeal, the inventory appeal official will issue and send a written decision letter on the appeal to the person who submitted it. The letter will include the reason(s) for the decision.

If the inventory challenge process results in a change to OSC's inventory, OSC will send a copy of the change to OMB and Congress, make the change available to the public, and publish a notice of public availability in the *Federal Register*.