

February 27, 2002

M-02-04

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Angela B. Styles
Administrator

SUBJECT: Year 2002 Inventory of Commercial Activities

The "Federal Activities Inventory Reform Act of 1998," P.L.105-270 (the FAIR Act), requires Federal agencies to prepare and submit to OMB, by June 30 of each year, inventories of their commercial activities performed by Federal employees. OMB is required to review each agency's inventory and consult with the agency regarding its content. Upon completion of the review and consultation, OMB is required to list the available inventories in the *Federal Register* and the agency head must transmit a copy of the inventory to the Congress and make it available to the public. The FAIR Act then establishes a two-step administrative challenge and appeals process under which an interested party may challenge an agency head's omission or inclusion of a particular activity on the inventory.

The President's Management Agenda highlights this Administration's government-wide management initiatives, including the need to expand competition and to produce a more accurate FAIR Act inventory of commercial functions performed by federal employees. OMB has made important changes to the process to streamline and improve the effectiveness of this important information. Please ensure that your inventories, as described below, are received by OMB not later than June 30, 2002. The year 2002 inventory will be the fourth FAIR Act inventory of commercial activities.

The Year 2002 agency inventories will be submitted in accordance with the guidance issued last year with several amendments, as follows. Last year's guidance can be found at the OMB website at: <http://www.whitehouse.gov/omb/procurement/fair-index.html>.

1. The Year 2002 Inventory format is attached. To improve the consistency of commercial and inherently governmental inventories on a government-wide basis, agencies will submit their 2002 inventories to OMB using the Excel spreadsheet that is available on the OMB web-site. This spreadsheet and the associated worksheets, include information to help agencies compile and verify the accuracy of their inventories and will permit OMB to analyze inventories within and across agencies. Each agency shall submit a completed spreadsheet, via email, to their OMB Resource Management Office representative and to Office of Federal Procurement Policy (OFPP). Each agency will also send one hard copy of the inventory to the same points of contact.

2. The Function/Activity Codes to complete the 2002 FAIR Act inventory of commercial activities are provided on the OMB website. The Function Codes provide a standardized tool for an agency to describe activities as commercial or inherently governmental in nature, based on the agency's application of the criteria in OFPP Policy Letter 92-01 and the FAIR Act. Agencies must use the listed OMB Function Codes in their June 2002 submission, unless a deviation is approved, in advance, by OMB.
3. A list of OMB Function Code definitions developed by the Department of Defense is provided for agency use on the OMB website. Civilian agencies may use these definitions or may tailor them to reflect their individual missions and requirements. Use of these definitions will facilitate consistency within and across agencies.
4. For 2002, agencies will provide to OMB a single inventory submission that reflects both the agency's civilian inherently governmental FTE and civilian commercial FTE, by location and function. Upon completion of OMB's review and consultation with the agency regarding the content of this submission, each agency shall provide a separate report listing only the agency's commercial civilian FTE to the Congress and the public in accordance with the requirements of the FAIR Act. Agencies should anticipate the possibility that after review and consultation, OMB may request the release of inherently governmental inventories.
5. Each agency will include the following as a part of their Year 2002 Annual Report on Agency Management of Commercial Activities, required at Appendix 2, paragraph I., of the OMB Circular A-76 Revised Supplemental Handbook:
 - A summary table showing the total number of commercial FTE and inherently governmental FTE by department/agency and by sub-agency/bureau, with respective percentages. This summary will reflect the same departmental, agency and sub-bureau designations as provided in the inventory.
 - A summary table showing the total number of commercial FTE and inherently governmental FTE funded through reimbursable agreements, by department/agency and by sub-agency/bureau. Total direct funded and reimbursable funded FTE are provided on one of the worksheets available on the OMB web-site.
 - As noted in the President's August 2001 Management Agenda, the Competitive Sourcing Initiative begins with the development of a complete and accurate FAIR Act inventory of commercial activities. As a result of these amendments, OMB expects to conduct a more thorough review of agency inventory submissions and will seek improved consistency within and among agencies in the determination of what is commercial or inherently governmental. The OFPP Policy Letter 92-1, dated September 23, 1992 (*Federal Register*, September 30, 1992, page 45096), provides detailed guidance on the identification of inherently governmental activities. In conducting its statutory review and consultation regarding the 2002 submissions, OMB will also focus on the following:

- Does the inventory reflect complete, separable and recurring commercial functions? FTE should not be eliminated from the FAIR Act inventory based upon existing organizational structures, if doing so would result in the elimination of work that would otherwise be included in the scope of a full performance service contract.
- Is the use of Reason Code “A” justified? The use of Reason Code “A” should be the exception and not the rule for any agency FAIR Act inventory. OMB may request copies of the required written justifications signed by the agency head for each application of Reason Code “A.”
- Has Reason Code “C” been properly applied? OMB has included, as a part of the 2002 FAIR Act Inventory worksheets, a detailed break-out of Reason Code “C.”

Please address any questions regarding the development of the Year 2002 FAIR Act inventory or the 2002 inventory of inherently governmental positions to Mr. David Childs, Office of Federal Procurement Policy, at (202) 395-6104.

Attachment

Content and Format of Inventories

To improve the consistency of commercial and inherently governmental inventories on a government-wide basis, agencies will submit FY 2002 inventories to OMB using an Excel spreadsheet. The spreadsheet is available from the OMB website at: <http://www.whitehouse.gov/omb/procurement/fair-index.html>. The information required in the 2002 submissions is described below.

Each department and agency will submit a completed spreadsheet via email to their normal points of contact in OMB's Resource Management Organization and OFPP. Each department and agency will also send one hard copy of the inventory to the same points of contact.

| Organizational unit | | |
|--|---|---|
| Agency | Enter 3-Digit Agency Code published in Circular A-11, Appendix C. | 3-char limit |
| Bureau | Enter Bureau Code published in Circular A-11, Appendix C. | 2-char limit |
| Organization Unit abbreviation | Enter Abbreviation that corresponds to the agency and bureau, e.g., FHA could be used for the Federal Highway Administration in the Department of Transportation. | 15-char limit |
| Location | | |
| City | Enter City Name | 25-char limit |
| State | Enter Two letter Abbreviation used by the US Postal Service. Abbreviations are provided at: http://new.usps.com/cgi-bin/uspsbv/scripts/content.jsp?D=14435#abbr | Blank when the location is <u>not</u> in the United States. |
| Country | Enter US – United States Spell out all other countries | |
| Status of Full-Time Equivalent Employees (FTEs) | | |
| FTEs | Enter FTEs for the activity. Round to the nearest whole number. | See Additional Notes below. |
| Activity Function Code | Enter a Function Code for each applicable Status Code. | See Attachment 2 of this memorandum for valid codes. |

| | | |
|---|---|--|
| Status | Enter C – Commercial or I – Inherently governmental | The new data element allows agencies to submit a single Year 2002 Report to OMB. |
| Reason Code | Enter the Reason Code for Commercial Activity (Status) functions only - reason that it is subject or not subject to cost comparison or direct conversion. | Reason codes appear in Appendix 2 of the A-76 RSH and OMB M-00-11. |
| Reason Sub-Code | When using Reason Code “C,” enter a reason sub-code that annotates the reason. Use only with Reason Code “C.” | See Additional Notes below. |
| Additional Information | | |
| Year that activity first appeared on FAIR Act Inventory | Enter year. Initial value was 1999. Applies only to commercial Activities - Required by FAIR Act. | Blank when the status (above) is inherently governmental. |
| Year of Cost Comparison or Conversion Decision | Applicable to commercial function status only. | Blank when not applicable. |
| CIV/FTE savings in thousands | Enter FTEs. Round to nearest whole number. | Zero when not applicable. |
| Estimated annualized cost comparison savings in thousands | Enter dollars. | Zero when not applicable. |
| Date of Completed Post-MEO Performance Review | Enter year. Applicable to commercial function status only. | Leave blank if not performed. |
| Contact Information (for Federal employee(s) knowledgeable of program) | | |
| Contact Last Name | Enter name of person responsible for activity or contact person for commercial and inherently governmental status. | 20-char limit |
| Contact First Name | | 15-char limit |
| Contact Prefix | Optionally enter Miss, Mr., Ms., Mrs. | 5-char limit |
| Contact Suffix | Optionally enter Jr., Sr., II, III | 5-char limit |
| Contact E-Mail | | 35-char limit |
| Contact Phone No. | | 20-char limit |

ADDITIONAL NOTES:

1. FTEs

The inventory format that agencies will download from OMB’s website includes the total number of FTEs published in the current year column of the President’s Budget. Agencies must provide a separate written explanation if the FTEs listed on their inventory submission (both commercial and inherently governmental) do not match, when aggregated at agency\bureau, the current year FTE levels published in the Presidents Budget.

2. APPLICATION OF NEW REASON CODE “C” SUB-CODES

Agencies will use the following sub-codes for each function that is assigned Reason Code “C.”

| Sub-code | Description |
|------------------|---|
| ExecOrder | <u>Executive Order</u> . The Executive Order should be provided as a part of the accompanying Management Plan. |
| Defense | <u>National Defense/Security Determination</u> . The written determination should be provided as a part of the Management Plan. |
| Patient | <u>Direct Patient Care</u> . The written determination should be provided as a part of the Management Plan. |
| Core | <u>Core Capability</u> . |
| R&D | <u>Research and Development</u> . |
| NSCSA | <u>No satisfactory Commercial Source Available</u> . The written determination should be provided as a part of the Management Plan. |
| LE10FTE | <u>Ten or Fewer FTE</u> . |
| IPSAM | <u>Industry Performance Standards Are Met</u> . The written determination should be provided as a part of the Management Plan. |

3. REPORTING EXEMPTIONS GRANTED BY CONGRESS

The OMB Circular No. A-76 -- Revised Supplemental Handbook allows agencies to use Reason Code “C” to exempt FTEs by Congress. Agencies must use Reason Code “G” to show FTEs that are exempt by Congress\as a result of legislation.